

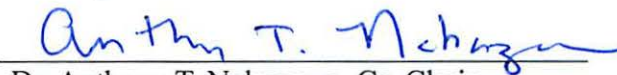
ALASKA NATIVE CLAIMS SETTLEMENT ACT AND THE UNRESOLVED
ISSUES OF PROFIT SHARING, CORPORATE DEMOCRACY, AND THE NEW
GENERATIONS OF ALASKA NATIVES

By

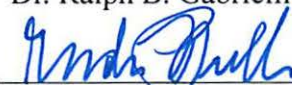
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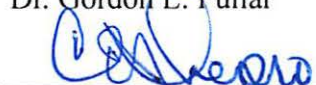
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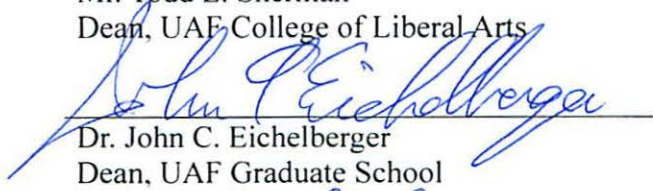

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A

THESIS

Presented to the Faculty
of the University of Alaska Fairbanks

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for the Degree of

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BY

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Abstract

The Alaska Native Claims Settlement Act was an experiment and a radical departure from policies in creating corporations with all shareholders being equal. The replication of publically traded corporate governance has created frustrations, inequities and unintended consequences for thousands of Natives which can be righted only if the experiment is continued. This is not a history of land claims but an attempt to unravel a tangled web of leadership, political, and rural development issues that are intimately interwoven with the ANCSA corporations. This paper is not about second guessing the leadership of the movement but about the need to understand how difficult it is to create rural development on corporate lands whose shareholders may or may not be residents and may not be Native.

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There is a common thread interwoven with the professional works of the committee members. Owners of the natural resources of the northern hemisphere and those affected by the development of such resources have a say in how and when extraction should occur – if ever. This has been my personal inspiration.

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be true as we move further into the 21st century. I remember their observations and I have tried to follow through in the spirit of their confidence and enthusiasm.

The technical aspects of inputting/ typing and formatting a dissertation are, I know now, a very formidable task. For this I want to acknowledge the assistance of Judy Hargis for her hard work and honest comments as we worked through the various drafts and to the many others who were willing to sit and serve over the years as a sounding board for me as my thinking evolved: Bob and John Walsh, Dr Ted Mala, Dan Seavey, Hugh Short, Jeanie Green, Lee Polleske, Allison Nyholm, Marie Matsuno Nash, Anthony Garcia, Hiroyuki Matsuura, Gene Kane, Hsueh-Ming Steve Wang, Oscar Guarderas, Steve Langdon and many others — THANK YOU!

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Edin Blatnik

Chapter 1

Prelude

Imagine this, the year 2071. Robert, a student in an Alaska Native studies class on the 100th anniversary of the signing of the Alaska Native Claims Settlement Act (ANCSA) on December 18, 1971, sits quietly as the professor lectures on the accomplishment of an uneducated class of aboriginal subsistence hunters, fishers, and gathers. Robert is an Alaska Native, born and raised in a village along the Kuskokwim River. He is the first member of his big, extended family to go off to college. Now in his third year, Robert, a 3.7 GPA student, is thinking about what to do after graduation with a business degree from the University of Alaska Fairbanks. According to the 1970 census, his home village had a population of 100 people. In 2071 the population is estimated to be 500 year-round residents, almost all are of Yupik Eskimo heritage. Traditionally, the residents have hunted and fished for generations. Today, most of the people live in subsidized housing and rarely fish because the permits are owned by non-residents from Washington state and California. It is a big-boat fishery and the fishers rarely come ashore to visit with the locals even though they fish right off shore of the village. Subsistence fishing is open later in the season after the Alaska Department of Fish and Game determines whether the quota for the commercial fishery has been met.

The commercial fishers, though small in number and getting smaller as more permits are accumulated by the successful fishers, are an influential lobbying group whose connections extend throughout state and federal legislative offices.

Though the residents live and shop in local stores, they seldom interact with the 750 mine workers who live in dormitory-style housing three miles from the village. The mine is owned by a trans-national resources corporation headquartered in Hong Kong with public relations offices in Anchorage, a city with close to a million residents.

When the workers from the mine do come to the village via the dirt road that connects the mine with the village's airport, they sometimes shop in the store and pay the 8% sales tax on the cigarettes, candy bars, and soda pop they buy. The airport is the only connection the mine has for moving supplies and people to the outside world.

The mine produces an ore which was determined to be of value in 2021, one year after the village corporation, organized pursuant to ANCSA, sold the surface of 120,000 acres to a company owned by a wealthy lodge owner who said he wanted to preserve the area for hunting and fishing for his guests. He promised hunting and fishing rights to all of the village corporation shareholders. When the surface estate was sold, there were 50 village corporation shareholders who lived in the village, owning between four and 15 shares each. The other 150 village corporation shareholders lived in Anchorage, the Mat-Su Borough, and the Lower 48. The shareholders voted in favor of selling the surface estate on the promise that the village board of directors would redistribute the profits of \$10 million to the shareholders. In 1971, when ANCSA became law, there were 100 shareholders in the village, almost all were subsistence users and hunted, fished, and gathered at what became the mine site.

The lodge owner did not note in the sales documents between his lodge company and the village corporation that the land acquired would preserve hunting and fishing

rights for residents or shareholders. The law firm received their fees from the proceeds of the sale.

The subsurface estate is owned by the regional corporation and under 7(i) of ANCSA, 70% of the profits must be distributed to the owners of original shares of all regional corporations. The other 203 village corporations receive their share of the mine's profits directly and the villages boards determine how to use their pro rata distributions.

There were approximately 65,000 ANCSA original shareholders in 1971, as of 2071 there are over 180,000 and most of them live in the lower 48 states. Each share is worth approximately \$100 annually in dividends from the mine. Thus, if an ANCSA shareholder owns 100 original shares, he or she would be entitled to receive approximately \$10,000 each year in dividends from the mine which is three miles from Robert's three bedroom aging, poorly insulated home that he shares with five brothers and sisters and his parents. It is in a low-income Native American housing project next to the airport. Robert lives in the village during the summer when he is not attending UAF. Robert owns no ANCSA original shares.

There are 50 major mines on Alaska Native corporations' lands throughout the state of Alaska. All of the regional corporations are joint venture partners with the transnational corporations. The regional corporations have no management responsibilities for the mining operations on the Alaska Native corporation lands.

In St. Louis, Missouri, Tom Smith IV is a 21-year-old student who lives with his parents in a wealthy section of the city while he attends St. Louis University. He owns

100 original shares he inherited from his grandfather who inherited the shares from his maternal great-grandmother who was one-eighth Yupik Eskimo. She was born in Ohio and never visited Alaska. Tom is one-sixty-fourth Yupik Eskimo, never been to Alaska, has no interest in Yupik culture and traditions, and receives an average of \$75,000 a year from his original shares under the profit-sharing provision of ANCSA.

Robert does not own original shares in either the village corporation or the regional corporation, although his oldest sister who lives in Seattle, Washington, owns 5 shares in the village corporation she inherited from a great aunt.

Robert's grandfather had 100 life estate shares in the regional corporation but they were not ANCSA original shares. The 100 life estate shares were only for the duration of his life. When Robert's grandfather died, the life estate shares went back to the regional corporation and never reissued.

Robert is 21 years old and a Yupik Eskimo. He does not own any ANCSA shares but he can Eskimo dance and speaks Yupik fluently. Yesterday, December 17, 2071, the largest natural resource extraction corporation in the world announced that they had signed an agreement with another regional corporation to build another mine (the 87th on Alaska Native corporate lands) that would rival Pebble by 15 times.

On the this day, December 21, 2071, a hundred years after the signing of ANCSA, Robert, sitting quietly in his class at UAF, wonders what were the Alaska Native Leaders thinking, what were they thinking way back in 1971? Was ANCSA a fair, just, and equitable land settlement that his great-grandparents fought so hard for and placed so

much hope in so that the Alaska Natives of the Yukon-Kuskokwim Delta would live better lives and would never again be taken advantage of?

A Complex Puzzle of Intent, Leadership, and Corporate Democracy

ANCSA is a complex puzzle with the parts changing shapes as if it was water flowing downstream twisting and bending around obstacles and barriers. Sometimes the Settlement Act appears as placid as a midsummer lake. At different times ANCSA seems without logic. No matter what public policy theories and opinions are attached to ANCSA, its complexities continue to daunt those who seek to define a big, bold, experiment sought in quest of a fair, just and equitable settlement of indigenous land claims.

There is no doubt that ANCSA is considered a great success. What has been accomplished by the many who have been involved throughout the decades has been done facing obstacles that few would have had the stamina to endure. The present focus of the original intent of ANCSA corporate governance, however, is often blurred. The methodology used was to bring into sharper focus the original intent of Alaska Natives during that time period immediately before and after passage of the Settlement Act. To rediscover what Alaska Natives wanted and expected was done using sources that were written and published during that time of hope and expectations.

Newspapers are great resources for interpreting and understanding the feelings and motivations of current events. Periodicals such as *The Tundra Times* and *The New York Times* are valuable in that they reported in depth what was happening in 1971.

Books and government studies published within the time frame are also valuable resources and those published after were less so.

The methodology used was intended to be a rediscovery of knowledge - while old - is new and refreshing for those who do not know. That group is made up of the generations of Alaska Natives who were born after December 18, 1971. The 'afterborn' Alaska Natives are the ones who are most in need of this new knowledge of original intent of ANCSA. And, it is they who have the most to gain and the most to lose because, after all, they are as Alaska Native as those who were born before ANCSA became law.

In 1971 ANCSA was hailed as a tremendous achievement for Alaska's Eskimos, Indians, and Aleuts. Most of them lacked the professional experience and college degrees assumed to be necessary for success in the corporate system. Civil rights activism and opposition to the war in Vietnam had created a climate for social justice and change. With the discovery of black gold at Prudhoe Bay, the mixture of oil and politics became a major part of the catalyst for settlement of the land claims. There was, however, major opposition in Alaska from political and business leaders who blamed the filing of land claims with the United States Secretary of Interior Stewart Udall as stopping the development of the state's rich oil fields. In a Los Angeles Times Service story which appeared in the *St. Petersburg Times* on October 30, 1969, Mark Ringstad, president of the 3,000-member Alaska Miners Association opposed the land claims proposals.

I really don't think they (Alaska Natives) should be entitled to thousands and thousands of acres just because their fathers walked over the land, Ringstad said. Archeologists say they've found Norwegian bones on this land - does that mean Norwegians should claim the land? I can't buy this. (St. Petersburg Times, 1969)

Alaska Native land claims was a controversial issue in the 1970 Alaska gubernatorial election. Governor Keith Miller who succeeded Walter Hickel when he resigned to become President Nixon's Secretary of Interior faced former two-term Governor William A. Egan. Egan, a Democrat, won the election with strong support from Alaska Natives.

The continuing, developing history of a corporate system as part of the land claims settlement is now being told from a number of perspectives that range from President Nixon's sympathetic feelings for Indians to an aging Tlingit who, as a lawyer, pushed for jobs and economic opportunity for Indians in the 1930s. There are many and perhaps there will be many more stories and recollections as a bursting population of Alaska Natives born after December 18, 1971 who are ineligible to own ANCSA original shares unless by inheritance or gifting question the system that is sure to create haves and have-nots.

While it is important to recall some of the history of ANCSA, this is not a historical telling of it. It is, rather, an effort to unravel a tangled web of leadership, political, and rural development issues that are intimately interwoven with ANCSA. There is no right or wrong perspective but there is a common theme throughout and that

is the corporate system was just an idea that took root as an experiment. In a paper delivered at the 53rd Rocky Mountain Mineral Law Institute, James D. Linxwiler (2007, p. 2) wrote that ANCSA “was an experiment in resolving aboriginal title in Alaska. Congress sought to resolve claims of aboriginal title without resorting to tribes, reservations, and litigation.”

Though ANCSA was experimental, there have been few changes to corporate governance either in federal or state statute. “Under ANCSA Sec. 7(g) the 12 regional corporations are organized under existing Alaska corporate law, which contains a number of special provisions for ANCSA corporations.” (Linxwiler, 1969, p. 15) It was then, in December 1971, that the professional lawyers, almost all of whom were non-Alaska Native, superimposed their interpretations of the experiment on the Alaska Natives who suddenly became equal shareholders in privately-held corporations simply because they had to because ANCSA created corporations.

Political and Alaska Native leaders grappled from the beginning over what kind of settlement would work best for the Alaska Natives. What would best protect traditional hunting, fishing, and gathering and at the same time usher the Alaska Natives into a modern era. The first concept of Alaska Native subsistence rights fell as money, land, and a corporate system took root over hunting and fishing.

The idea of creating a corporation or corporations for Alaska Natives was a blatant attempt to avoid creation of reservation-styled land settlements familiar to the western states. Many argued that the Indian reservation system in the Lower 48 had created pockets of poverty and there was little support for creating such a system in a

state about to enrich it's treasury from oil royalties. Among those who made the case against reservations was William Paul. In his autobiography, Paul, a southeast Tlingit and a lawyer, said he urged the Bureau of Indian Affairs (BIA) and the U.S. Congress to allow 'groups of Indians' without regard to tribal affiliation to organize corporations. (Paul, 2003, p. 78)

While many assume President Richard Nixon's support of a large and generous settlement was because of his support of oil development, there may be another reason. It is often said that Nixon had a soft spot in heart for American Indians. Maybe so, but in Donald Craig Mitchell's second book (2001) on Alaska Natives, *Take My Land Take My Life*, he writes of a touching moment in Nixon's impromptu speech to a Blue Lake gathering of Taos Pueblo Indian people in March 1971 that gives credence to many who believe the legislation Nixon signed into law was returning part of Carson National Forest to the Taos Pueblo. Mitchell quotes a Nixon aide who was there and described it as in the following way:

As he walked into the room (Nixon had) said, 'I'm going to say ten words, sign this thing and get out.' But he saw the people there, the elders, and he stood up and went on and on and on and on and on. This was a thing that was lying close to his heart. (Mitchell, 2001, p. 398)

There probably would not have been a billion dollars and a 44 million-acre settlement without Nixon's support.

The complexities should come as no surprise in this introduction. This paper is not about second guessing the leaders of the land claims movement but about the need to

understand how difficult it is to create rural development on corporate lands whose shareholders may or may not be residents and may or may not be Alaska Native. It is an attempt to explain the words 'corporate democracy' and what it means to the largely rural population of Alaska Natives who depend on subsistence activities to feed families and carry on cultures and traditions in an ever-increasing world whose population hungers for middle-class status. The rapidly increasing world population and the motivation to achieve middle-class status stress available natural resource reserves worldwide. This drives the free-market and in the effort to satisfy the hunger, other resources will probably be tapped and new uses for minerals probably will be discovered. A good example of uses for old minerals is uranium. It was not until theory was put to practical use with the bombing of Hiroshima and Nagasaki was the entire world was made aware of the value of uranium. Later, energy uses from uranium was discovered.

When all is said and done, the lands of the Arctic will most likely be explored and developed for three reasons: firstly, global climate change has made the Northwest Passage more likely to be used for commercial shipping of natural resources and products from Europe, Asia, and North America; secondly, the Northwest Passage will reduce the need for long surface transportation. Harbors and ports will be built in the Arctic where none were needed before and not then economically feasible. Thirdly, the Arctic is sparsely inhabited. Alaska, Siberia, Greenland, Iceland, and the Nunavut Territory in Canada have few inhabitants and some have assumed that means there will be less conflict and confrontation with resource development corporations.

Most of the village corporations still have their land holdings which is only the surface estate. The subsurface is owned by the regional corporations. Though some village corporations have sold their surface estate, they cannot sell what they did not own. Thus, the regional corporation still owns the subsurface estate that is subject to 7(i) of ANCSA. Under 7(i) each regional corporation is required to share with all the other regional corporations 70% of all revenues derived from timber resources and the subsurface estate. (Pub. L. No. 92-203, 85 Stat. 688, 693, 1971) That section applies only to owners of original shares and not to the life estate shares created by several of the corporations for those born after December 18, 1971.

All owners of original shares have a stake in the profits from any development of the mineral estate in an area approximately the size of the state of Missouri. The stake is the subsurface estate that is also eyed by resource development corporations, both small and transnational. In an information summary circulated by the Alaska Miners Association their interest in the mineral estate is clearly laid out.

Alaska regional and village corporations are a unique form of private corporations. Their lands are owned in fee simple and can be mined or developed under agreements just as any other private lands in this country. Additionally, the Alaska Native corporations want development on their lands and they encourage minerals exploration. These lands were often selected because of their high mineral potential and because there has been relatively little exploration or development

in Alaska, the opportunities are tremendous. (Alaska Miners Association, 2011)

Proposals to develop Alaska Native corporate lands bring with them a powerful local, state and federal political lobby for any transnational corporation. Each regional corporation and its shareholders have a vested interest in the profits from exploitation of the mineral estate. There were approximately 6.5 million original shares issued after ANCSA's passage. Since then the number of shareholders worldwide has grown. For example, an Alaska Native born on or before December 18, 1971 outside of Alaska and married to a non-Alaska Native may gift all or a portion of his/her shares to his/her children; if he/she dies without children his/her non-Alaska Native spouse could inherit his/her shares; and if he/she dies, his/her inherited 100 ANCSA shares could be transferred to his/her non-Alaska Native relatives living anywhere in the world. It is presumed that a shareholder is interested in dividends and will advocate for resource development on 7(i) lands.

In a story in the online newspaper *Alaska Dispatch*, Bristol Bay Native Corporation (BBNC) is described as a regional corporation caught in a paradox. While BBNC opposes the proposed Pebble Mine because of the threat to the world's largest natural run of wild salmon, the corporation has an agreement to explore mineral prospects in another part of its regional boundaries. BBNC's move may be more similar to a paradigm. The corporation's vice president of land and regional operations is quoted as saying that the move “should come as no surprise to many who understand the

corporation's responsibility to its shareholders.” (Alaska Dispatch, 2013) The corporation had 5,401 original shareholders in 1971 and in 2013 had about 7,800.

The village corporations play a critical role in the development of the 7(i) resources that cannot be overlooked but they can be overwhelmed with pressure for development from non-resident original shareholders. The locations of the 200 or so villages have strategic implications when it comes to resource development. Many of them are located in potential transportation corridors and in the event of resource development and exportation of the ore, those villages, at least some of them, could become strategically important ports, transportation transfer hubs or sub-regional financial and service centers.

The Disconnected Dots, Confusion and Secrecy

Emergence of Paradoxes and Controversies

Any discussion of governance of the ANCSA corporations is fraught with complex issues involving paradoxes. There are contradictions involving corporations and democracy, leadership and followers and the benefits of traditions and those that come with modernization. And there are public policy controversies that emerge between rural and urban residents over economic development versus subsistence and other issues involving for-profit or non-profit organizations. And looming in the not too distant future are the legal issues, which are steeped in emotion of who benefits from the development of the subsurface - rural residents or Alaska Native regional corporations shareholders.

ANCSA created 12 Regional Corporations (Appendix A) and over 200 Village Corporations (Appendices B and C). “The imposition of a conventional corporate

structure on tribal members carries significant implications for land use and social organization.” (Huhndorf & Huhndorf, 2011, p. 386) Whether Congress intended or wanted conventional corporate governance for the long term is debatable. Congress either wanted the corporations to develop their own corporate model of governance by following the unique traditions of Alaska Native governance and then incorporate them into the western corporate model, or develop some other form that was more in step with common ownership of fish and game resources. The former would empower subsistence hunters and gathers and make them responsible for the management of the land as equal owners with equal voices and equal votes in for-profit corporations.

Perhaps governance of the Alaska Native corporations was a side issue not openly discussed because the emphasis was on getting the oil out of the ground and into a pipeline. “Congress was under pressure to settle with the [Alaska] natives so Alaska could be opened up to oil development, but in settling with the [Alaska] natives it rejected the idea of Indian reservations as a failed social policy.” (Egan, 1990)

What emerged within months of President Nixon’s signature on the bill was the western corporate model superimposed over some of the poorest people in the United States with the expectation that they would behave as Wall Street bankers and capitalists. What also emerged has left many of the people confused or left out of some of the corporations, which have incredible potential wealth in subsurface minerals. And, some say, it also resulted in dissention with allegations of overpaid non-Alaska Native managers who do little more than administer government minority

contracts and long time incumbent directors more interested in self-service. (O'Harrow, 2010)

When it comes to lawmaking, an old adage is often stated, there are two things you never want to see: how sausage is made and how law is made (attributed to Otto Von Bismark). Such is the case with ANCSA.

Governance Intent

The question addressed in this section revolves around intent. What was the intent of those who negotiated the various proposals that eventually culminated in ANCSA? The intent involves the question of governance of the Alaska Native corporations and not whether the westernized model of the corporation was better than Lower 48 reservations. This section requires a look at the past by deciphering words from a few leaders at the time (Charles Edwardsen, Jr., Al Ketzler, Sr., and Byron Mallott) that encapsulate the meanings of the many who testified before and after the Settlement. The question of corporate governance is largely left outside of the realm of the United States federal government regulations since the act specifically exempts the Corporations from the Security and Exchange Commission (SEC). This is not to say that other aspects are left out of that realm. Of course, environmental regulations, labor rules and regulations, and numerous other regulations apply, but there are no federal regulations to preserve fairness and justice in Alaska Native corporation governance. What was assumed, perhaps, was that the State of Alaska would promulgate and implement rules and regulations on corporate governance that would reflect the wisdom of the numerous leaders throughout rural Alaska. The tactics used by boards and

managers of publically traded corporations were, for the most part, not discussed nor are there any popular notions expressed in any of the proceedings of how they – the newly formed Alaska Native corporations – were to be governed.

While it is not clearly stated that the Alaska Natives expected to be treated as equals in a corporate system, the intent is clearly established that all expected to be treated as equals. This expectation is the establishment of the intent that democracy as it was known and practiced at the time was one Alaska Native equals one vote. It is inconceivable to think that any Alaska Native would accept a corporate system where the of status of a shareholder's vote and participation is defined by the use of tools of publically traded corporations in the privately-held ANCSA corporations

The Superimposition of Non-Alaska Native Intent

Almost from the time of the discovery of oil and the filing of Alaska Native claims to all of Alaska and parts of Canada, informal and formal proposals were moving fast and furious. It was easy to lose track of the rumors and to determine what was serious and what was not.

During the intensity of the negotiations over various proposals in 1970 and 1971, there are some who maintained that the lawyers kept the Alaska Natives in the dark. For example, Arctic Slope Alaska Native Association leader Charles 'Etok' Edwardsen, Jr. is quoted as saying in the book *Etok: A Story of Eskimo Power* that "he was really shocked to find out what the Alaska Federation of Natives attorneys had been trying to do without telling their clients." (Gallagher, 2001, p. 203) The book *Etok* said Edwardsen was referring to HR 1830, a bill later scrapped by Representative Wayne Aspinall, Chairman

of the House Subcommittee on Indian Affairs. *Etok* quotes Edwardson as saying, “‘Jesus Christ, we haven’t even seen this (referring to HR 1830).’ Our goddamned attorneys had been working with a few Congressmen trying to make an agreement, and they were going to try secretly to report this thing out.” (Gallagher, 2001, p. 36)

Closed sessions of Congressional Committees often occur when there appears to be a strong likelihood that a bill will be reported out. In such loose secrecy, provisions can be added and taken out. Such was the case in September 1970 when “the [Alaska] Natives won their first legislative victory when the House Subcommittee on Indian Affairs agreed in ‘closed sessions’ to a provision that would grant the [Alaska] Natives title to 40 million acres.” (Jones, 1981, p. 36)

Charles ‘Etok’ Edwardson, Jr. in the book *Etok* and the government report cited are two examples of how the settlement of the way in which politics and the political process affected the final version of the Settlement Act enacted by Congress. So with allegations of ‘secrecy’ and congressional practices of ‘closed sessions,’ it is difficult to academically determine who was ‘sitting’ at the table when the issue of corporate governance emerged and how it was addressed by the various lobbies which included federal agencies, tribal advocates, State of Alaska, Chambers of Commerce, Alaska Federation of Natives (AFN), oil and gas industry companies, Alaska municipalities, and numerous yet unnamed entities.

It is almost without a doubt that what was driving an Alaska Native claims settlement was the pressure by the oil industry and the economic and financial interests in Alaska who would likely profit from the construction of mega-projects. The state needed

to generate revenues to fund social programs such as education, job training, and rural development. In Barry Scott Zellen's book, *Breaking the Ice*, he quotes attorney James Wickwire who wrote in *Native News*,

Assertion of Alaska Native rights effectively stalled land selections by the State of Alaska and construction of the Trans-Alaska Pipeline to transport Prudhoe Bay oil south across the entire state. Congress was compelled to respond to the legal, political, social and administrative turmoil; ANCSA was the result.” (Zellen, 2000, p. 33)

Forty years ago was a thousand years ago in rural Alaska. Some people felt that while a few negotiators behind the scenes expected the Alaska Native leadership to develop new concepts on how to govern the newly created corporations, this did not happen but instead what happened was the superimposition of the standardized model over them. This is an interesting observation and sparks great curiosity in 2013 during this time of the current Great Recession, wide-spread media coverage of corporate greed, and lax government regulations over corporations. Unease with the current ways of doing business on Wall Street, and all that its culture represents, has sparked considerable academic theorizing. As new theories take hold, such as the developing Stakeholder Theory, Alaska Native corporations seem intent on holding on to the old cultures of Wall Street that were developed a century before ANCSA.

The Stakeholder Theory seems to make an abrupt departure from the usual understanding of business as a vehicle to maximize returns to the owners of capital. (Freeman, Harrison, Wicks, Parmar, & De Collie, 2010, p. 5) It can be said that Congress

handed the Alaska Natives an academic theory in 1971 – pure ‘corporate democracy.’ It was not widely known then in such terms but it was practiced throughout the Alaska Native communities. As corporate America has moved to embrace tinges of corporate democracy, the Alaska Natives have to embrace the purity of corporate democracy if it is to redefine itself as ethical and moral in the sense and interpretation of those who gave up their claims to the land in exchange for something purely American and yet so un-Alaska Native.

If corporate America is apt to change, then ANCSA corporations should also seek changes but in ways that do not imitate those ‘normal’ corporations but reflect traditions and cultures of Alaska’s indigenous peoples. Rather than imitation, should come innovation and thinking outside the box. Those seated at the table during Alaska Native settlement negotiations put the Alaska Native inside the box.

The Relevance of the Past

*When you begin a great work you can't expect to finish it all at once;
therefore do you and your brothers press on, and let nothing discourage
you till you have entirely finished what you have begun. Now brothers, as
for me, I assure you I will press on, and the contrary winds may blow
strong in my face, yet I will go forward and never turn back, and continue
to press forward until I have finished, and I would have you do the same . .
. Though you may hear birds singing on this side and that side, you must
not take notice of that, but hear me when I speak to you, and take it to*

heart, for you may always depend that what I say shall be true. (Nerburn, 1999, p. 20)

Teedyuscung (1700-1763)

King of the Delaware

The questions of how to provide for future generations have been with Native Americans probably from the moment it was fully realized by Native American leaders that the great waves of Europeans arriving on the shores of North America would not soon end. Thus it came to be that the same questions asked by Teedyuscung and others before him would be asked almost 250 years later in far off Alaska. As the earth's population continues to grow with a projected population of over nine billion by 2050 (U.S. Census Bureau, International Data Base, June 2011 Update.), the pressure for natural resources will grow and the eyes of developing countries will see the northern hemisphere as ideal because of sparse populations and free-market politicians in command of states and territories. Siberia, Greenland, the Inuit Territory of Canada, and Alaska will become favored targets of trans-national corporations eager to satisfy the needs of growing middle classes in the developing countries. They will want better refrigerators, better televisions, more iron, gold, oil, gas, automobiles, and all the other trappings now possessed by the middle class in the United States. Today, the trans-national corporations know ANCSA corporation lands are private lands, unrestricted by corporate policy on natural resource development. As the corporations become more concerned with the need for a positive bottom line, the pressure from within the corporations will grow to develop these natural resources. Many other voices in rural

Alaska, not shareholder voices, but Alaska Native voices, may be drowned out by the din of offers from the trans-national corporations that owe no allegiance to country, tradition or culture.

In 2013 the drumbeat for new mining developments throughout Alaska is increasing in tempo. Since NANA's Red Dog mine was developed in 1987 no less than 75 mining prospects are in early or advanced planning stages. Names of prospects like Lik (5,500 acres, zinc, lead, and silver); Kelly Creek (105,000 acres, gold); Sun (45,000 acres, gold, silver, and lead); Lucky Shot (8,800 acres, gold); and Unga (62,000 acres, gold and copper) could become as familiar in Alaska as Red Dog and Pebble. (DeMarban, 2012)

Some of the prospects are on state lands but many others yet to be will be on ANCSA lands which brought in the profit sharing provision of 7(i). The significance of mining on Alaska Native lands is simply that mining will be done on private lands which have never existed in an aboriginal lands claims settlement. Mining prospects on Alaska Native corporate lands brings in a powerful political lobby of at least 65,000 original shareholders, many of whom have died but whose shares are now distributed among many others around the world.

When one thinks of mining on Alaska Native lands, it should never be done with the belief that it is the Alaska Natives who will have the only (or most) say in whether the prospect will or will not be developed. This is because original shares (approximately 6.5 million) are private property and can be inherited by anyone in the world or *inter vivos*

amongst family. Thus, the Alaska Native corporations may respond to shareholders pressure for dividends rather than preservation and promotion of original cultural values. This will become more complicated when, by December 18, 2021 (fifty years after passage of the Settlement Act), most of the original shareholders will be deceased and the inheritors will not be living within the regional boundaries. In essence, they will be less concerned about Alaska Native issues such as traditions, cultures and subsistence activities. At least one regional corporation has already reached this heralded milestone. Chugach Alaska Corporation, the second smallest of the 12 Regional Corporations in Alaska, whose boundaries include the Gulf of Alaska and the coast of the Kenai Peninsula, has fewer than half of its shareholders living in Alaska and only about a quarter living within the boundaries. Yet, since 1971, the Alaska Native population of the Chugach region has doubled and most of those born are not and probably will not be shareholders. (Alaska Population Overview 2010 Census and 2011 Estimates, 2012, pp. 53-54)

All of the mining prospects are too big and too far off in the future to be financed solely by the regional corporations. The financing of such developments will likely come from trans-national corporations whose corporate missions will not include protection and enhancement of cultures and traditions of Alaska Native peoples, but profits and dividends for the stockholders. Therein lay the paradox of the Alaska Native corporations – profits vs. Alaska Native values.

The advice of past generations of Native American leaders was as relevant then as now. Teedyuscung advised the young to deliberate respectfully, but press on and not

become discouraged by voices from one side and ignore the other side. Just as Teedyuscung's advice was relevant so was Sitting Bull's, "Let us put our minds together and see what kind of life we can make for our children." (Nerburn, 1999, p. i)

Alaska Native Corporate Governance, the Failure to be Bold, Experimental

ANCSA in 1971 was hailed six years after the AFN was formed in 1966 as a big, bold experiment in how to settle age-old disputes over land ownership and how indigenous peoples should be treated. In his paper written in 1994, University of Alaska Anchorage Economist Steve Colt wrote that ANCSA

....was widely hailed as a radical departure from previous United States Indian policy and perhaps the most generous settlement of indigenous land claims ever offered by a major colonial power. Alaska's living 70,000 Alaska Natives acquired clear title to 44 million acres of land – an area larger than New England. (Colt, 1994, p. 7)

The negotiating and lobbying efforts of numerous Alaska Native leaders and friends of the Alaska Native communities were a tremendous accomplishment but the future loomed with uncertainty. The challenges facing Alaska Native leadership were assumed to be no greater and no less than the battle for a fair, just and equitable settlement. In the December 17, 1971, *The Tundra Times* editorial, which was written prior to the signing of the act, Editor Howard Rock noted the opportunities and challenges.

If the bill is approved, or when it is approved, the President, no doubt, will sign it. That moment will be the beginning of a great era for the Alaska

Native people of Alaska. It will not be an easy task. It will demand all the strength the leadership has. It will be a job for the present and more for the future of our Alaska Native people. (The Tundra Times, 1971)

In the same editorial, Rock said that the Alaska Native people had proven that they could handle "... highly complex problems. We must not do less in the future. We must meet it with confidence and then do more for the good of our people today and those of tomorrow." (The Tundra Times, 1971)

Thirteen years later (1984), at hearings of the privately-funded Alaska Native Review Commission (the Berger Commission), Alaska Native leader Byron Mallott said that when the corporations were created, "Uncle Sam slipped an ace up his sleeve." (Alaska Native Review Commission [ANRC], 1984, p. 308) Mallott was referring to the federal government using corporations in ANCSA "to propel Alaska Native people into the mainstream, and to use mainstream-kind of institutions in order (for Alaska Natives) to exercise self-sufficiency and control over their own destinies." (ANRC, 1984, p. 308) The Settlement Act itself is an example of outside forces using their self-interests to further aboriginal issues. Without the powerful lobbies that the oil and gas industry brings to the table, the land claims would probably have been much less, much later in time.

Perhaps the greatest challenge that has come to burden Alaska Natives is how to govern the corporations when as the Alaska Native population grows, the number of 1971 original shares remains static (approximately 6.5 million original shares). Those shareholders with original stock will share in the development of the subsurface estate of

the land – 44 million acres, an area roughly the size of the state of Missouri. The many new shareholders created with new classes of life estate shares in regional corporations such as Arctic Slope Regional Corporation, NANA, Doyon, Ltd., and Sealaska, will not share in the profits from mineral and forest harvesting development.

Benefits of Enrollment

Almost all who know of ANCSA would probably agree that the single most important benefit of owning shares in a corporation is identity. Shareholder status means the right to belong to participate in your tribe's governance. There are, however, other benefits of enrollment.

There are two general categories under federal law on how an Alaska Native owner of original shares created by the Settlement Act can benefit. The first is under the 'Indian Commerce Clause' of the U.S. Constitution. The Constitution gives Congress the power to "regulate Commerce with foreign Nations, and among several States, and with the Indian Tribes." (U.S. Constitution, Article 1, Section 8, Clause 3) The second category is under Section 7(i) of the Settlement Act which grants all shareholders the right to share in the profits either directly or indirectly from the development of the timber and mineral estate of entire land base of 44 million acres.

In the 1970 census there were 50,605 Eskimos, Indians, and Aleuts in the State of Alaska. Starting in 1950 with a population of 33,863, each new census has shown a dramatic increase in the Alaska Native population. In the 1960 census there were 42,522. The population grew to 64,103 in 1980 and to 85,698 in 1990. Twenty years after ANCSA (1991) there were 107,929 people in Alaska who identified themselves as

Alaska Native. The most recent census (2010) shows there are 120,452 Alaska Natives living in the state. (Alaska Population Overview, 2012 p. 13) Since ANCSA is a settlement of all aboriginal claims the number of shares of original shares is set at the number of Alaska Natives of at least one-quarter blood who were born alive by December 18, 1971 and who choose to enroll. Upon enrollment each Alaska Native was granted 100 shares of stock. There are therefore approximately 65,000 shareholders who own 6.5 million shares. (Arnold, 1978, p. 146) What is significant about the Settlement Act is that there will be no more original shares to be distributed to ‘afterborn’ Alaska Natives born after December 18, 1971.

Under Section 7(i) of the Act, 70% of the net profits from the development of timber and subsurface estate must be distributed to the other regional corporations based on the number the original shares owned by their shareholders. At-large shareholders receive a direct distribution while village shareholders' distributions go to the village corporation.

[Public Law 92-203, Section 7(i)]

Alaska Natives can be granted contracting opportunities under federal law such as the Small Business Administration's 8(a) program. And as an owner of original shares, a shareholder can receive monetary distributions from the profits of the development of any of the regional corporation's subsurface estate. Some of the regional corporations (Sealaska, NANA, Doyon, Arctic Slope Regional Corporation and Bristol Bay Alaska Native Corporation) have created life estates for those born after December 18, 1971. While the ‘afterborn’ Alaska Natives can participate and vote in the annual meetings of

shareholders they cannot pass on their shares to whomever they choose as original shareholders can and do. Life estate shares revert back to the corporation upon the death of the shareholder.

Alaska Native Corporate Democracy

The central issue to be discussed revolves around the concept of corporate democracy. While many think that such a concept is oxymoronic, similar to General Patton's interpretation of military intelligence as depicted in the movie *Patton* (Schaffner, 1970), much can be explained in the thoughts, actions, and testimony of hundreds of Alaska Natives during the land claims battles of the 1960s. What was the intent, or perhaps better yet, what was the expectation of how the typical Alaska Native corporation was to be governed? Were Alaska Native corporations to be governed like associations with members each having an equal vote similar to tribal governments where voting equality is traditional and cultural? Or, did the Alaska Native leadership fully comprehend the complex corporate system with proxies, management slates, and never-ending public relations campaigns via newsletters, informational meetings, and shareholders' annual meetings where voting has come to be a distraction from the door prize drawings. In another oxymoronic characterization, the annual shareholders' meetings have turned from verbal exchanges between shareholders and directors to deafening silence. This has become the case in at least one regional corporation's annual meetings.

Before a discussion of Alaska Native corporate democracy can begin, corporate democracy must be defined and then explained how it is applicable to corporations created pursuant to P.L. 92-203.

So, what is corporate democracy? And how is it distinctly applied to Alaska Native corporations? And, how did corporate governance come to be part of the discussion of a fair, just, and equitable (as was often said) Alaska Native land claims settlement? Did it just arise without any legal advice, consultants' reports, or explanations of how corporate governance differed from local, state, and federal governments as well as traditional tribal governments?

ANCSA corporate democracy is the right to participate on a equal footing with all shareholders. All shareholders have the right to vote, the right to speak freely, the right to gather independently of corporate management, the right to information on how their corporate funds are spent, and the right to be treated honestly and fairly by those who they elect to the board.

Corporate democracy within the realm of the settlement act has yet to be fully defined. Any core part of the definition would have to come from P.L. 92-203 which states that any person of one quarter or more Alaska Native blood was eligible for enrollment with 100 original shares of stock in a regional corporation and/or village corporation. Before the 1991 amendments, all shares were restricted and could pass from a shareholder to another living person only by death. Thus, all Alaska Natives enrolled in a particular corporation were created as equal shareholders.

In western conceptual thinking, many consider corporate democracy a myth. (Icahn, 2008) Wall Street businessman Carl Icahn maintains it is a myth when applied to publically traded companies where shareholders come and go as stock prices rise and fall and thus have little or no interest in the concept of corporate democracy. As Icahn applies it, shareholders are interested only in the bottom line and how much money they have made or lost. But in Icahn's application of what corporate democracy is today, it is not an attack on corporate governance in theory or in another era's practices, but of what western corporate democracy has become. "'The buildup of incompetent boards and managers is the result of poor corporate governance.' Icahn goes on to say that the corporation is run 'like a decaying socialistic state.'" (Icahn, 2008) Carl Icahn's summation of what publically traded corporations are today is only partially applicable to P.L. 92-203 corporations because the issues with Alaska Native corporations are of the use of voting regulations to maintain political control over the board and management of the corporation. In publically traded corporations, as the shareholder buys and sells stock, the shareholders voting strength ebbs and flows with the purchases and sales. Not so with Alaska Native corporations.

There are many scholars and professionals who now seek to define corporate democracy. It is oxymoronic, even the 2012 Occupy Wall Street protesters and those sympathetic to its many slogans and mission statements are at loss to define what has become an elusive definition that is caught up in free-market jargon. There are those, however, who seek to define Occupy Wall Street in the sense of democracy. The online magazine *Yes!* refers to it as "the people's movement to take back democracy and build a

new economy.” (Yes!, 2012) In a sense, that is what dissident shareholders of Alaska Native corporations seek to do – to allow for a larger shareholder voice in the management of the Congressional created companies. The dissidents also seek to level the playing field when it comes to election of directors.

In late 2011, as the Occupy Wall Street protests grew around the world, Forbes magazine contributor Peter Cohen attempted to define corporate democracy by asking, “What is Occupy Wall Street?” (Cohen, 2011) Cohen's response is one that can easily be attributed to Alaska Native shareholders who question the values system of the management of ANCSA regional corporations. Cohen writes that companies create jobs that provide money, health care, and a sense of purpose and if they do that well, they reward shareholders with dividends. He also writes that by paying taxes and giving to communities they become good corporate citizens.

Regrettably, not all companies follow this value-creating script. That's why society needs to regulate companies. And due to the symbiosis between politicians who need cash to finance their quest for power and companies that are eager to supply that cash in exchange for profit-boosting government policies, government does not represent the interests of non-corporate people as well as it does those of corporate ones. (Cohen, 2011)

Alaska Native regional corporations are loosely regulated by the State of Alaska and exempt from federal securities laws. In December 2012, the U.S. Government Accounting Office (GAO) released its long-awaited report on ANCSA.

The Corporations are subject to some federal and state financial reporting requirements and limited state oversight. The Settlement Act generally exempts the corporations from complying with federal securities laws while requiring them to annually transmit a report to their shareholders that contains 'substantially all the information' required to be included in an SEC registrant's annual report to shareholders. The act does not provide a federal role for monitoring the corporations' compliance with this requirement, and the state's oversight is generally limited to enforcement of state securities laws and proxy regulations. (Government Accounting Office GAO-13-121, 2012)

Corporate democracy has its roots in commercialization that today is better defined within the concepts of globalization. Many multi-national corporations are becoming trans-national corporations that have no national boundaries and flee from the reach of weak governments or small state's governments. Sophisticated, driven and motivated by huge financial rewards, they hire the best and brightest from the world's best law schools, the world's best research institutions, and the world's best business schools. This has put the concept of corporate democracy at risk as national states are becoming increasingly powerless and easier to intimidate. It also comes at a time when ANCSA corporations are at risk of losing control to bottom-line driven executives who have become comfortable manipulating boards of directors, monitoring social networks, and conducting never-ending public relations campaigns to convince the shareholders of the good that they do.

For many Alaska Natives the shift from the male role model of a subsistence hunter to a corporate executive has been a quick one-way trip down a rocky path as it twists and turns. In a 1986 scholarly article in the *Journal of American Indian Education*, author Gary C. Anders wrote that there were two roles applied to young Alaska Natives.

The first is that of the traditional hunter and village leader, a person with a strong sense of the natural order and the cultural traditions that have bonded people to the environment for countless generations. The second, more difficult to describe because it lacks historical connotations, is that of the corporate Alaska Native. This stereotype blends the tundra tradition with Wall Street. A characterization includes astute knowledge of corporations, high finance, and big money projects. Debonair, articulate, and urbane, this role model stresses all the style implied by the term, “Brooks Brothers Alaska Native.” Between these traditional and corporate extremes, there are few other roles for Alaska Native high school age villagers. This phenomenon is largely due to the impact of the various media and glorification of stereotypes by their own corporation's public relations efforts. (Anders, 1986, p. 7)

Did Congress Intend Pure Corporate Democracy?

What the U.S. Congress created in 1971 was unintentional at least within the understanding of the thousands of Eskimos, Indians and Aleuts living in rural Alaska. Congress created the standard corporate model instead of ‘pure corporate democracy.’ To be fair the ‘pure corporate democracy’ model had not been developed in 1971. Instead

the Congress introduced a new bold, fair, and just concept, 'pure corporate democracy.' The emphasis here must be on 'pure' because each and every Alaska Native of at least one quarter Eskimo, Indian or Aleut blood was entitled to own 100 shares of stock in a corporation that would own the land. There was a 20 year restriction on the transferability of the stock. That, essentially, was it. The intent, it would be safe to say, was to further the interests of equality and fairness by the corporation as it treated its owners and the land which the corporation owned. The people who used the land would become shareholders with no one user having greater usage than any other since who hunted or fished was open to all as equals.

Evolution of Corporate Democracy: From Concepts to Words to Making Laws

In a sense, the gospel of capitalism has gripped the leadership of the regional corporations just as in another day, another kind of gospel was introduced for its educative and assimilative influence. The profit-making mandate has become a powerful vision, a powerful driving force. The corporate executives will be those who are willing to forego subsistence activities, to place a higher priority on board meetings than on salmon fishing, and to spend time talking to lawyers and financiers and bankers rather than the people of the villages. It is possible that there will develop a leadership cadre in the Alaska Native corporations that will become somewhat removed from the shareholders. The Alaska Native corporations, in a sense, will approximate other large businesses and that

management will, more and more, be separated from ownership. (Berger, 1985, pp. 41-42)

Professor Monroe Price

The Entering of ‘Corporation’ in the Alaska Native Lexicon

How did the word ‘corporation’ come to be in the Alaska Native lexicon? Did it just happen because no one seemed to take the time to understand how the Alaska Native culture would fit within the corporate structure? Or was it because those who were involved made too many assumptions about corporate governance? After all, if the shareholder owned a share the shareholder could vote, right? The U.S. Congress in 1971 determined that only Alaska Native shareholders would be allowed to vote and non-Alaska Native shareholders could not. This is subject to change. But there was nothing said or explained about corporate regulations that allowed for staggered terms and cumulative voting now commonly used by the regional corporate boards to win elections. Cumulative voting was implemented in most corporate systems to allow for minority representation on the boards, but since all are equal in Alaska Native corporations where no one shareholder can gain an upper hand in voting by buying more shares, thus have more votes, it is routinely used to keep majority board members in their positions.

Cumulative voting in ANCSA corporations was introduced as regional corporations struggled to maintain stability. By the mid-1970s, the system used by publically traded corporations was used en mass by ANCSA regional corporations. It

also cemented the advantage incumbents have over independent candidates for the board. For example, if there are three seats for three years terms on a nine member board of directors, each share is multiplied by three. Thus an owner of 100 shares has 300 votes. In publically traded corporations, cumulative voting was implemented to increase the chances of minority shareholders (those who owned only a few shares) to gain a voice on the board.

Who was watching the store in 1969?

In his book, *Give or Take A Century*, author Joseph E. Senungetuk summed up what probably was a major issue among those involved with lobbying efforts. There were very few organizations that could afford to send delegates or representatives to meetings because they were making a living doing subsistence.

The real problem today is that there is little time to ponder the question of whether to get involved in such things as Alaska Native Rights, Civil Rights, or Alaska Native Leadership. Time is moving, getting shorter and shorter for those of us who would pause a moment to ponder our 'self-involvement.' There are just too many people who are not Alaskan Natives, who are willing to exploit as much labor, natural resources, and cultural uniqueness out of the Alaskan Alaska Native as they can. (Senungetuk, 1971, p. 169)

This was at a time of intense pressure on Alaska Natives to agree to a proposal, any proposal, to settle the land claims issue so that construction could begin on the trans-Alaska oil pipeline.

If knowledge is power and education is the key to the power, then who was watching the store in the 1960s was no one or, at best, only a few. The few, if any, Alaska Natives who were learned of how publically traded corporations elected directors to govern were either too trusting of their lobbyists and lawyers or the lawyers and lobbyists were so arrogant that they felt little obligation to keep their clients apprised of what the governance consequences would be under the various bills considered by Congress.

Pure Corporate Democracy, The Unfulfilled, Unintended Consequence

It should be said that the Alaska Native invented 'pure' corporate democracy. It was done so with passionate feelings for the land and cultures; it was done after generations of isolation from justice and equality; and, it was done only because the U.S. Congress passed a law that the Representatives and Senators hoped would not result in leaving Alaska's Eskimos, Indians, and Aleuts among the lowest classes of peoples in the country. What happened after passage of the law is speculative, spawning rationalization of why things turned out the way they did. In another sense, perhaps the other part of the invention statement should be *and then the bastards stole pure corporate democracy from the Alaska Natives*.

That unintended, and now unfulfilled, consequence of the Settlement Act, the creation of 'pure' corporate democracy, came at a time when any discussion of corporate ownership equality and management control in westernized, publically traded corporations was often discussed by corporate directors in terms of cumulative voting (one share equals one vote times the number of seats up for election). Arguably,

cumulative voting was unknown, even among the most highly educated Alaska Native leaders, since experience with corporate business was practically unknown to Alaska Natives. This was not to say that there were no successful Alaska Natives in private business and there were no educated Alaska Natives in the professions of law and teaching. Indeed, there were, but precious few.

The U.S. Congress created equal ownership among the Alaska Native corporate shareholders but restricted that ownership for 20 years, hence the restrictions would be lifted and the stock would be freely alienable. That section of the law was later amended to prevent non-Alaska Native ownership of valuable lands and subsurface resources. Even with the amendments, what was left intact was ‘pure corporate democracy.’ This is evident throughout the act where there is a total absence of any attempt to give one group more or any one individual more influence or power over the other. Such eventual influence results from political skills rather than buying and selling of shares in the manner of publically traded corporations. That influence and control comes simply because of a lack of state regulatory affect on the corporations.

The FitzGerald Commission: Land Claims Settlement and Poverty

When the Alaska Federation of Natives was created in October 1966 there is little doubt that any one seemed in favor of creating a Lower 48 reservation-styled Alaska Native claims settlement. Though there was talk of something different, that difference did not become publicly known until the presidentially appointed Federal Field Committee for Development Planning in Alaska came out with their recommendations in February 1969. The field committee was originally appointed by President Lyndon

Johnson after the 1964 earthquake but was later tasked with the responsibility to come up with recommendations to solve the land freeze imposed by Secretary of the Interior Stewart Udall. The announcement came in the form of a headline in *The New York Times*. “A federal study team recommended a broad plan that would settle the claims of Alaskan aboriginals to millions of acres of their ancestral lands while avoiding racial segregation that put American Indians on reservations more than a century ago,” (Blair, 1969)

Reflecting back on the recommendations of the field committee, *Etok, A Story of Eskimo Power*, the author quotes Charles Edwardsen, Jr. as saying that the proposals reflected Chairman Joseph FitzGerald’s ideas on fighting poverty, not a just settlement of the land claims. “Joe’s concept of the Alaska Native land claims settlement evolved out of Joe’s concept of the Alaska Native people being poor. That was not my concept. I don’t really think that Joe FitzGerald ever really thought in his mind that the Alaska Natives had title.” (Gallagher, 2001, p. 192)

The Times also reported that the field committee (also known as the FitzGerald Commission) recommended the creation of a corporation to administer a land and monetary award. The committee recommended an Alaska Native corporation, owned by aboriginals as shareholders and granting it \$100 million from the treasury as payment for rights taken in the past and granting to the corporation 10 percent of the income from the leasing or sale of minerals and other resources for a period of 10 years. This would be in compensation for all rights extinguished by the proposed legislation at the end of 10 years. (Gallagher, 2001, p. 193) This is when the word ‘corporation’ entered into the

Alaska Native lexicon. The Eskimo, Indian and Aleut world was about to change in unthinkable and unanticipated ways.

The FitzGerald Commission had some big names on it and they were workers and thinkers. It included upper level federal government managers from the Federal Power Commission; Federal Aviation Administration; Small Business Administration; Economic Development Administration; Office of Economic Opportunity, Housing and Urban Development; Department of Interior; and the Department of Health, Education and Welfare, and even the Commanding General of Elmendorf Air Force Base. The staff of the commission included some who would remain influential and become respected names in Alaska's public policy arena for generations – Esther Wunnicke, Dr. Douglas Jones, Dr. Arlon Tussing, Robert D. Arnold, and David M. Hickok.

After the commission's work began, they soon realized that the Alaska Natives had legal title to an asset – the land. Attorney Fred Paul later recalled,

I asked David Hickok, 'How long did it take you folks to stumble on the theory that Alaskan Natives have substantial legal rights?' Oh, it took us several months, he replied. Then he amended his statement. 'No, no, it was just a matter of a few weeks.' (Paul, 2003, p. 185)

Once the FitzGerald Commission determined that the Alaska Natives had legitimate legal claims to the land, the land as an asset would have to be owned by someone or something and managed by someone or some kind of entity. The Commission also determined it was unlikely to be the United States Government as in the manner of the Lower 48 Indian reservations.

In the final section of *Alaska Natives and the Land, Framework for a Settlement* (written by Wunnicke, Arnold and Hickok), the FitzGerald Commission gave direction.

There are two basic approaches: one grants assets to beneficiaries directly and relies upon their management of their assets; the second gives assets in trust to the Secretary of the Interior for the benefit of Alaska Natives.

One seeks to protect Alaska Native assets by adding another layer of decision-making; the other seeks to assign full and final responsibility to the beneficiaries for the management of their assets. While the Alaska Native leadership prefers the management to be given to the people rather than to the Department of the Interior, they are fully cognizant of the varying abilities of villages to make final management decisions respecting large expenditures of money. (Federal Field Committee, 1968, p. 546)

The Commission also recommended that Congress should define the structure to manage the assets. “Although a trust arrangement is not supported by the Alaska Native leadership, it appears *they do wish the Congress to spell out the mechanism of corporate or organizing structure for asset management which will protect their own and the public interest.*” (Federal, 1968, p. 546)

Management of Assets

Congress did designate the type of ownership in the final legislation, but it did not mention any uniqueness that would apply to Alaska Native corporations. The corporations would be left to adapt to the prevailing (western) ideas of corporation

structure and governance or continue the experiment with bold, new ideas of corporate management.

Meanwhile, among shareholders of western corporations, the fight to change how westernized for-profit corporations were governed simmered for years, erupting in the creation during the Great Depression of the federal Securities and Exchange Commission (SEC) to regulate publically traded corporations. The SEC implemented regulations to curb graft and corruption such as insider trading and management using tactics to prevent small, minority shareholders from having a voice on the boards of directors.

The challenges of a non-reservation type settlement were looming. Yet undefined, yet misunderstood, and yet imitated, the model of the tool to be used to what Natives thought would be a model based on fairness and equality was the corporation. By the mid-1970s all of the ANCSA corporations veered to the right and implemented strategies to weaken shareholders' voices and participation. Such strategies included cumulative voting, restricting access to information, and intimidating shareholders by filing or threatening to file complaints against dissident shareholders. Complaints against shareholders on the basis of false and misleading information became widespread. If the ANCSA corporations were democracies, then speaking freely about candidates or corporate management did not warrant the filing of legal action. In the American democracy, which was what most Alaska Natives thought would ensue, if a citizen can complain about the performance of the President of the U.S. or any governor, then a shareholder could complain about the Alaska Native corporate management without fear of legal action. After all, among Alaska Natives who, as a class, had some of the lowest

education levels of any group in the United States, complaints about corporate management should be treated in the same manner as complaints about politicians and bureaucrats in a democracy.

Starting in September 2011, in every major city in Europe and the United States, protesters united under the banner ‘Occupy Wall Street.’ Wall Street-type corporations today are not the type of 40 years ago, but how they are governed has not changed. This is the governance model used by ANCSA corporations today, yet it is a broken model.

It should come as no surprise that the practice of corporate governance fails, precisely because it has been built on the wrong pillars atop the vices of individualism and utilitarianism. What we have had so far is corporate governance designed for crooks; it is time to devise one that makes corporate virtue possible (Osterloh & Frey, 2003). (Sison, 2008, p. 36)

The FitzGerald Commission used the corporation because it needed something to own the land. The commission was not going to recommend that Alaska Native lands be held in trust by the Federal Government. Corporations in 1969 were more regulated (Glass-Steagall was federal law) and corporate governance was publicly perceived to be working without any of the greed and corruption now routinely reported by the media starting with Enron in 2001, Madoff in 2008, and the Banking Scandals in 2012.

The Daunting Task of Corporate Governance

To illustrate the daunting task facing Alaska’s Natives, a primer prepared by the State of Alaska’s Department of Education and the University of Alaska Fairbanks in June 1975 (three and a half years after passage of ANCSA) was distributed among the

new shareholders. The Alaska Native Claims Settlement Act gave every Alaskan Alaska Native the right to be a shareholder in at least two corporations, the small book explained. In a series of questions, such as, “Why did this important law give people shares of stock instead of just dividing up all the land and money between them?” the author answered the question using a story told in terms related to subsistence hunting and fishing. (Conn, 1975, p. 3)

Another good example illustrating the efforts to overcome those obstacles is the Alaska Native Foundation (ANF) book, *Alaska Native Claims Settlement Act*, edited by Robert Arnold (1978). The book was released at a time when change began to happen rapidly. With the effective date of the Settlement Act set within six months of President Nixon’s signature on the bill, the non-profit Alaska Native associations’ boards of directors were charged with changing the direction from social agenda causes to for-profit bottom lines. Almost overnight, the non-profit, advocacy-oriented Alaska Native associations were transformed into for-profit corporations which had millions of dollars in cash and ownership rights to 44 million acres of Alaska land. The for-profit boards had money to meet, money to pay directors fees and per diem, money to hire consultants and lawyers, and money to travel but not enough money to meet the expectations of thousands of Alaska Natives who were now shareholders. Not only did the expectations include dividends but also funding expectations for housing, jobs, scholarships, and building transportation infrastructure. The pressure on the directors magnified with unrelenting media interests igniting the general public’s curiosity of the Alaska Native corporations. Not only did the Alaska Native-turned-Alaska Native shareholder need to

be educated about the private sector and making money, the general public also needed to know about private corporations, shareholders' rights, and the high cost of doing business in rural Alaska.

The pressure on the social activists who sat on the ANCSA boards was intense as shareholders' expectations went unmet. Many of the shareholders expected the regional corporations to address issues on the public agenda such as employment, housing, poverty and education. But, ANCSA corporations were not public entities by private and had the corporate duty to maximize profits. At annual meetings from one end of the state to the other, newly enrolled shareholders packed the halls and peppered their boards with questions. None of the questions were considered to be 'stupid' or 'ignorant' questions. Management and directors often listened politely and answered professionally. There were no demeaning comments made to shareholders on how they conducted themselves nor were there efforts to intimidate them. All shareholders were created equal and all shareholders had a right to know.

The shareholders did not hesitate ousting the directors and replacing them with more sophisticated shareholders who could articulate ideas and instill confidence in the attendees represented in person and by proxy.

Tactics Change, New Leadership Emerges and the Table is Rearranged

In what ways were leaders of the land claims movement different from traditional leaders? First, they were younger men. For example, Willie Hensley, Byron Mallott, Charlie Edwardsen, and Emil Notti were all less than 40 years old. Second, they differed in education. Most of the

movement's leaders had completed high school, which contributed to their acculturation to white society. Third, they were more knowledgeable about politics and law and more willing to experiment with different kinds of political tactics. And, they were politically assertive, not passive. Fourth, the new leaders were more likely to have a statewide orientation. By this we mean they were less tied to their villages of origin. They were more experienced in the various Alaska communities, having travelled extensively as part of their educational training or participated in antipoverty programs in areas other than their own. Finally, in attitude they responded to the tempos of the 1960s rather than the 1940s – intent on deal [dealing] with administrators and politicians as equals, not merely as clients of administrative agencies. (McBeath & Morehouse, 1980, p. 26)

Howard Rock, Editor,
The Tundra Times

The Bottom Line Versus the Social Agenda

Rearranging the table began within a year of the passage of the Settlement Act. There was a severe shortage of professional, technical, and clerical manpower to meet the needs of the ANCSA corporations. Business managers, social and economic program managers, attorneys, land management specialists, comptrollers/accountants, land resource technicians, secretaries, and bookkeeper and accounting clerks were all needed. Judith Kleinfeld's study of manpower needs was just one of many done that noted the

shortages. (Kleinfeld, Jones & Evans, 1973) What was not noted was the lack of knowledgeable Natives who could serve on the boards. Since it was the shareholders who would decide who was elected, it was assumed that board members would be local or regional leaders. However, with so much at stake the elections soon became like campaigns for public office. In seeking the support of the Alaska Native shareholder vote the effort to use public office-styled campaigns for seats on private corporate boards became the standard.

In some of the poor areas of the state where there were few opportunities for full-time jobs and the housing conditions were below poverty guidelines, the pressures on the for-profit boards were intense. The media continued to press forward with the image that these were for-profit companies that were supposed to make money. There was little correlation in the media stories between government responsibilities to its citizens and shareholders of Alaska Native corporations. There was an elementary understanding by both Alaska Native and non-Alaska Native that the for-profit corporations would address and fund what was clearly in the government area of responsibilities.

Stories in the press often noted the ‘coups’ that seemed to take place routinely. Only NANA, the regional corporation for Northwest Alaska, and Ahtna (Copper River Basin) seemed immune from the management and board turnovers. The Alaska Native shareholders were responding to this new concept of ownership and did so in the only way they knew how – vote the incumbents out and put new people in to serve on the boards. It should be noted, that at this time almost all of the Natives who wanted to be shareholders were shareholders and an estimated 99% of them were owners of 100

shares. Gradually as death took its toll, the number of 100 share block-holders became fractured as Alaska Natives and non-Alaska Natives inherited stock. Happening at the same time was the growing number of ‘afterborns,’ those Alaska Natives born after the effective date of the act December 18, 1971.

The Alaska Native shareholders seemed to be listening to the tundra that harbored the traditions and cultures of generations of Eskimos, Indians and Aleuts. The incubators of the corporate governance system were not.

Chapter 2

Prelude

A Hundred Years Ago, Did the Alaska Native Leadership Intend This?

Robert is sitting in the UAF student cafeteria reading his mail. He opens a letter from the regional corporation he belongs to that is marked 'important, proxy material.' Robert is a shareholder in the regional corporation. Last summer when he attended an informational meeting in the tribal community hall on the proposal to expand the mining operations lands once owned by the local village corporation he was not a shareholder. When he started to ask a question about hiring local people, the chair interrupted him and asked if he was a shareholder. When Robert answered, No, not yet, but I live here with my parents, brothers, and sisters, the chair cut him off and said the meeting was only for shareholders and he was not allowed to speak or ask questions. He could, however, remain in the meeting and listen – if he behaved. There were about two dozen shareholders in the village of mostly Yupik Eskimos. Robert's sister was embarrassed, so much so that she gave him one share of her ten so that he could participate in shareholders' meetings – and be eligible for a job at the mine.

The proxy solicitation contains four names. There are 12 members on the regional board of directors. The solicitation also announces that any shareholder of Alaska Native descent can run for the board; however that does not mean the shareholder's name will be on the ballot unless approved by the nominations committee made up of all directors not running for reelection. The committee is made up of eight directors, all of them having served 20 to 30 years. Two of the directors live on the

Yukon-Kuskokwim Delta. Three of the directors have graduated from a university and one of the three has a B.A. in business administration.

All members of the regional board of directors serve on the boards of other Alaska Native organizations such as the non-profit health corporation, non-profit housing authority, and federal/state regional subsistence advisory committee. Most of the board members are on a first name basis with the state's political leadership.

No independent candidate, not nominated by the board for inclusion on the board slate, has won election in over 75 years.

An Experiment Born Out of Poverty and Frustrations: Efforts to Civilize the Indian and Bring the Alaska Native into the 20th Century

During the mid-1980s hearings of the Alaska Native Review Commission, funded in large part by private organizations, it became apparent that ANCSA was being implemented but there was still grinding poverty throughout the Alaska Native community. The creation of 12 regional corporations and over 200 village corporations had sapped much of the financial resources awarded by the Settlement Act for the creation of entrepreneurial enterprises. Jeanie Leask, then president of the Alaska Federation of Natives,

If the implementation costs were heavy for the regions, it is worse for the villages, especially for the small ones, because they had so little cash from the Alaska Native Fund to begin with. We have villages which are almost broke from going through the steps of incorporation, corporate elections, enrollments, stock issuance, land selections, land conveyances, CPA

audits, meetings, decisions, public reporting, etc., etc., etc. They haven't made much money or really engaged in much economic development. But they have implemented ANCSA. And many of them have now come to a point where they may have to sell some of their land in order to keep going. (Berger, 1985, p. 30)

An Experiment, Big and Bold

There is no doubt that the 1971 Alaska Native Claims Settlement Act (ANCSA) was experimental. It was passed at a time of great social unrest as civil rights protests and Vietnam War demonstrations left many Americans unsettled and pessimistic about the future. Voting rights, poverty, discrimination, and corporate greed and influence over political processes dominated commentary in the media. The country's young and the intelligentsia had swung to the left while the social, political, and business leadership attempted to steer the country down the middle road. Somewhere in the mix of all this was the oil industry with its leases on the Arctic Slope and its inability to get the permits approved to build the pipeline to pump the oil. The Eskimos on the North Slope were in the driver's seat as the momentum went down the road of social justice.

The 1960s was a decade of change: music changed; clothing styles changed; hair styles changed; ideas about sex and drugs changed; and the proposals on how to deal with the Indian 'problem' began to change.

Replicating two hundred years of federal Indian policy to create reservations in Alaska was a non-starter in the negotiations because Lower 48 Indian reservations were

pockets of poverty. However in many cases those reservations were far better off than Alaska Native villages in rural Alaska.

The evolution of efforts to civilize the American Indian went from ethnic cleansing to teaching them how to farm and operate a ranch. Then in the 1950s the official federal policy became individual private ownership of the land. “The idea of American Indian private property in land dates back as far back as 1633 and even President Thomas Jefferson (1801-1809) saw the policy as an appropriate instrument for civilizing the Indians.” (Frantz, 1992, p. 23)

Around the middle of the nineteenth century the idea of the individualization of landholdings was again taken up, for example, in the treaty negotiations with the Chippewa and the Shawnee. From the viewpoint of American Indians, however, all these experiments were failures, because ultimately it often meant that the commonly held trust land was granted to individual Indians, who in turn very often lost their land. (Frantz, 1992, p. 23)

Removing the Indian from his homeland was a government policy that found favor even with President Jefferson. The idea had originated with Jefferson who saw the new Louisiana Purchase as “perfect for the relocation of Indian tribes.” (Hoxie, Hoffman & Albert, 1999, p. 327)

Thus, from almost all aspects – national guilt over treatment of Native Americans; increasing rates of poverty on reservations; need for civil rights for all minorities; and, the legal basis for land claims – it is not unreasonable to conclude that Congress expected

a continuation of the experiment. Nor is it unreasonable to conclude that no one in Congress expected anything except for a pipeline to be built.

Facing Political Reality

In Alaska, the idea of numerous reservations throughout the state was met with hostility by the general population. Old timers who had spent decades in the territory, many born in Alaska, resented the fact that they would be excluded in any proposed settlement. Reservations were viewed as permanent, which could tie up valuable areas of potential resource extraction and if there was any extraction it would benefit only a few. Free education, free healthcare, and no obligation to pay property taxes on reservation lands were often argued, first loudly in the early years of the land claims, then in more quiet terms as the 1960s ended. With a voting population that could number 20% of the total, Alaska Natives made up a huge potential voting bloc that would be lost if reservations were established.

The reservation idea was met with hostility in 1944 when the federal Department of Interior suggested that the Alaska Natives be compensated for their aboriginal claims. This prompted a visit to Washington D.C. by Alaska officials who said the U.S. Interior Department 'stirred up the racial issue' in the territory. (Crider, 1944) In *The New York Times* story, delegate-elect E.L. Bartlett is quoted as saying,

These officials in Washington are talking about the rights of the [Alaska] natives, but I can't understand is how they can discriminate against the white men who moved up here and made their homes in Alaska. If they cannot enforce the present rights of Indians, how do they propose to police

the new reservation policy? I think it is unfortunate to stir up racial feelings between the Indians and the white people at this time when we have made so much progress toward removing the racial barrier. (Crider, 1944)

E.L. 'Bob' Bartlett later won election as one of two U.S. Senators when Alaska became a state. He served until his death in December 1968. Governor Walter J. Hickel then appointed a former state representative, Ted Stevens, who was defeated in the August Republican primary to the Senate seat. Senator Stevens was a key architect of the Settlement Act.

Once the 1966 gubernatorial election was over and the analysis of the election returns began, it quickly dawned on the politicians and the Alaska Natives that there would be a settlement, but what kind was still up in the air. Several things were clear; it was going to be complex and there were going to be many obstacles but the Alaska Natives had to stick together. In a guest editorial in the *Tundra Times*, Nick Gray wrote

The myriad of problems which we will demand be resolved by the State of Alaska and the U.S. Federal Government are extremely confusing and complex. But with careful selection of leaders among our people to represent each area – meeting delegates and representatives from sections of Alaska so that we pool our efforts and then speak with one voice. Such a voice, representing 50,000 Alaska Natives – all voters, will impose upon our duly elected representatives in Juneau, a thorough and complete survey. We must resist and forever detest the attitude of paternalism

which government and state actions incur. Our hereditary claims can hardly be denied, since they extend far into the dark ages of history, far out-dating the beginning of most established nations . . . (Morgan, 1988, p. 217)

That the Alaska Native land claims had legal and political legitimacy was clarified by Interior Secretary Stewart Udall's executive order that there would be no federal land transfers until the claims were settled. The December 1966 order (Executive Order 13175), commonly referred to as the 'land freeze,' meant that there would be no granting of pipeline construction permits for the proposed trans-Alaska pipeline. The order simply formalized federal Indian trust policies.

Six months later, Emil Notti, president of the newly-formed Alaska Federation of Natives, is quoted in *The New York Times* as stating that the Secretary is charged with looking after the [Alaska] Natives' interests and "should maintain the freeze until positive action is taken for settlement of the claims." (The New York Times, 1967) What was in store for the Alaska Native was unknown but whatever it was going to be, it was going to be tangible. "We realize compromises will undoubtedly be made," he (Notti) added, and he agreed it would be in the [Alaska] natives' interest to present a united front with the state once Secretary Udall presents to Congress a bill he is preparing." (The New York Times, 1967)

Udall's executive order caught everyone's attention. "It was a critical victory for [Alaska] Natives, Robert Willard, a Juneau leader in the claims battle, remembers

[Alaska] Natives' reaction: 'Everybody said, He did what?' Then everybody from our side realized this is pretty serious." (Brown, Thompson & Holst, 1999)

As 1971 was coming to an end "it was clear there would be a settlement." (Brown et al., 1999) But what kind of a settlement?

[Alaska] Native representatives traveled to and from Washington, D.C. as a number of proposals and settlement bills were debated. They spent days meeting with pipeline contractors, unions, the Sierra Club and others, and knocked on doors of congressman to keep the land claims issue in front of them. (Brown et al., 1999)

"When the settlement bill was in its final stages, lobbyists had gone over it for days. Willard said that even though they had just a few hours to go over the final version, they were, by then, thoroughly familiar with it." (Brown et al., 1999)

There are other opinions of who knew what was in the bill and what was not in the bill. "Even guys lobbying didn't know what was in the act, Schaeffer of Kotzebue said. People back in the villages knew even less." (Brown et al., 1999)

FitzGerald Commission Findings

When the FitzGerald Commission came out with its findings, the idea that some kind of an entity had to 'own' the land that would eventually be awarded to the [Alaska] Natives, it was a foregone conclusion it would be a corporation. (Federal Field Committee, 1968, p. 530) The corporation is a familiar organizational concept and seemed a logical alternative to reservations. Corporations can be used to fit almost any concept of ownership and responsibility.

Corporations are, in fact, involved in virtually every type of human activity today, legal and otherwise. The reason is that the corporation is not comprised of an array of job-specific skills, but rather a means of organizing any human activity. While corporations exist as small as one person . . . the real genius of the entity lies in its ability to employ large numbers of people in complex enterprises. (Brown, 2003, p. 2)

Was the reliance on the corporate system wishful thinking?

In retrospect, the endurance of a subsistence economy in village Alaska suggests that the land claim's central reliance on a corporate structure might of itself have been wishful thinking on behalf of the land claim's architects. The idea of corporations emerged as a way to hold assets and land. The lands could be lost through bankruptcy and in 1991 they would also be at risk from corporate takeover and bankruptcy. Many wonder why Congress and land claims leaders would put the very lands that [Alaska] Native peoples hoped to save forever, in something as risky as a corporation. (Zellen, 2008, p. 47)

'We didn't want trust lands. In a lot of ways this was a social experiment. They were trying, I think, to get the Indian into the economic mainstream of America,' founding Alaska Federation of Natives (AFN) President Emil Notti later explained. 'We decided that if we were going to make mistakes, we'd do it ourselves. If we were going to be poor we'd at least be responsible for what we did. And it's probably best to get people

independent. And one of the quickest ways to familiarize people with the economic system is to give them a stake in it. And what better stake is there than a hundred shares in a corporation.' (Zellen, 2008, p. 47)

It should be noted that when Emil Notti was President of the AFN it was essentially a two-person office with a volunteer board of directors. AFN was funded with membership dues, donations, and raffles. In May 1968 the organization was awarded a \$282,792 federal manpower contract to develop training. That same year the statewide Alaska Native organization borrowed \$100,000 from Tyonek which was recently wealthy from oil and gas revenues on their reservation. (Federal Field Committee, 1968, p. 443)

The early years of the AFN are in sharp contrast with the AFN of 2013, a multi-million dollar organization with billion dollar corporations as members, all with seats on the AFN board of directors. (AFN homepage, <http://www.nativefederation.org/>)

Was There Bias for a Corporate Structure?

Was this corporate bias coming from the behind the scenes architects? Was that the main reason there was so much secrecy during the negotiation process from 1968 to 1971? The answer to both questions is the rising costs of the Vietnam War and the Great Society programs were worrisome to President Lyndon Johnson's administration (1963–1969). Perhaps it was time to turn more towards free market ideas instead of continuing to follow Keynes economic theory.

As former Attorney General Ramsey Clark recalled, 'We were – not so much me but the other lawyers working on it – were, business corporate lawyers. That was their history, that was their knowledge, that was their

joy. And their familiarity with [Alaska] Native ways and needs was somewhat limited.’ As a result, ANCSA took on a corporate form, and this, perhaps more than anything else, led to grassroots movement after ANCSA was implemented to restore tribal sovereignty, and to reject the corporatization of [Alaska] Native culture. (AFN homepage)

In 1970, as the fall elections approached, Charles ‘Etok’ Edwardsen, Jr., Executive Director of the Arctic Slope Native Association went ‘berserk’ when he found out that the lawyers for the Alaska Federation of Natives were not telling their client what was being proposed behind closed doors. Edwardsen found out there was no coalition working for passage of HR 1830. “Charlie found that things had been both under lobbied and over lobbied. Alaska Natives, lawyers, state representatives, the Alaska delegation, and lobbyists were running at top speed in all directions.” (Gallagher, 1974, p. 203)

With communications between Washington, D.C., and rural Alaska still primitive because in most rural villages, a single telephone was used by all, a great deal of technical and detailed bill language got lost in the translations between Alaska Natives of different cultures and education levels with those who worked on behalf of the AFN and the non-profit Alaska Native associations.

During the entire time of the negotiations, it is suggested that little was known or revealed to the clients by the corporate lawyers about corporate governance. And, the lawyers knew little about how Alaska Natives governed themselves in remote villages over an area one-fifth the size of the United States. The proposed legislation was on the fast track with a third of the U.S. Senate and all House members up for election.

Alaska's gubernatorial election was focused on a proposed trans-Alaska pipeline that was stalled by the 'land freeze' imposed by former Secretary of the Interior Stewart Udall. Alaskans were impatient and numerous business organizations such as Chambers of Commerce passed resolutions urging swift action. Alaska Native organizations were being blamed for stalling economic development. The state government needed revenues to provide for basic services and build public infrastructure such as roads, harbors, airports, and education facilities.

Even in more recent times, many suggest that the Alaska Native leaders failed to grasp the consequences of the use of corporations to own the land. In the book *Growing Up Native in Alaska* published by the for-profit regional corporation CIRI, Patience Mercurief views the past as many of those born after December 18, 1971 do.

When they worked on ANCSA, I get the feeling that they were steam-rolling through it, trying to come up with something different from reservations they had in the Lower 48. Alaska was (sic) become a state, and they had to give the Alaska Natives something, some money and some land. And the Alaska Natives wanted something, something in return for their land, but I don't think they were sure about how they wanted to receive it. I know what it ended up in is that they got in the form of corporations, a foreign concept brought into the Alaska Native communities. They didn't know about big business and corporations. They had to get educated and learn about it. It was a whole new process. They had this money and the land. (McClanahan, 2000, p. 72-73)

She goes on to say “They tried to make the corporations into something that would benefit all Alaska Natives, but they weren’t thinking 20, 40, 50 years into the future. They were thinking right now. With corporations, land could be bought and sold. So maybe in 50, 60, 70 years, they could be even non-Alaska Native owned or operated corporations.” (McClanahan, 2000, p. 72-73)

It must be emphasized that ANCSA was a negotiated settlement with those who claimed the land. Each Alaska Native of at least one quarter Eskimo, Indian or Aleut blood, or one accepted by village residents, was entitled to own 100 shares in a village corporation and 100 shares in a regional corporation or, if a Alaska Native did not live in a village, only in the regional corporation. There were no restrictions on who could inherit the shares. (Public Law 92-203, Sections 3, 4, 5.)

Social and Political Pressure for a Settlement

The pressure for a land settlement was intense. Alaska’s political and civic leaderships were impatient with the delays in the construction of a pipeline from Prudhoe Bay to tidewater at Valdez. The delays were implemented under Interior Secretary Udall’s land freeze – which prohibited any permits on federal land which at that time was roughly 99% of the state – until the Alaska Native land claims issue was resolved. The Interior Secretary’s trust responsibilities over Native Americans included Alaska Natives.

As the FitzGerald Commission documented, the social, economic, and physical conditions of the Alaska Native in the 1960s were among the worst in the United States. Seventy percent of the Alaska Natives lived in 178 villages that were predominately Alaska Native, half of those villages with a population of less than 155. However

migration was occurring, mainly to Kotzebue, Bethel and Barrow. Barrow's population doubled in the years from 1950 to 1960. There were 12 fewer villages than in 1950, but 80% of the villages were larger. The crib death rate among [Alaska] Natives was twice that of white Alaskans. In 1966 the principle causes of death were accident, influenza, pneumonia, and diseases of early infancy. The cost of goods was 74% higher in the Alaska villages than in Seattle. Joblessness among [Alaska] Natives was between 50% to 60% in March and September 1966 as there were few year-round jobs. Most of the seasonal jobs were unskilled. (Federal Field Committee, 1968, pp. 12-16)

The FritzGerald Commission also painted a grim statistical image of how well prepared the Alaska Natives were to manage a corporate system if the Congress awarded land and money in an effort to avoid creating reservations. Of the 25,000 Alaska Natives 14 years and older in 1960, 50% had less than a sixth grade education, 21% seventh or eighth grade, and 14% high school. Of those attending high school, 8% graduated. Two percent went off to college and only a fraction of those completed four years. (Federal Field Committee, 1968, pp. 12-16)

It is no wonder that Charles Edwardsen believed that the Commission thought of the lands claims solution as a potential part of a resolution to the poverty in rural Alaska. (Gallagher, 2001, p. 192)

Seeds of Corporate Democracy

There was little anticipation of how those born after 1971 would feel about not having original shares. Though a relation, such as parent, grandparent, aunt or uncle, could transfer shares upon their death, not everyone could expect to be a shareholder with

profit-sharing rights from the development of the subsurface estate. The regional corporations and several of the village corporations have become so large and influential that Alaska Native identity is strongly attached. When the question was asked of Gloria O'Neil, an 'afterborn' Alaska Native,

'How do you feel about the fact that some people born after 1971 are not shareholders?' she said, 'I understand financially why it might not be in the best interests of the corporation to open the rolls and dilute the shares of the stock if for some reason a Alaska Native corporation like CIRI were to make everybody born after 1971 shareholders. But then again, I think that it's important that individuals born after '71 have an identity. And a lot of the young people we see here know they are Alaska Natives or descendants of Alaska Natives, but some cases, they don't know what village their parents are from. Or, they don't know if they're Yup'ik or Tlingit.' (McClanahan, 2000)

In 1974 in testimony before the U.S. Senate Committee on Interior and Insular Affairs, Gregg K. Erickson, then a staff economist with the National Fuels and Energy Policy Study and a former economist for the FritzGerald Commission, said, "In America, at least, the corporation has been perceived as a threat to representative democracy and a source of irresponsible power for well over a century." (Federal Charters for Energy Corporation, 1974, p. 249) Erickson cited an editorial from *The New York Times*, entitled The Corporate State, from which he quoted its views on the growth of the corporation by asking the question, "how do we 'prevent powerful special interests from

frustrating the Democratic processes . . . without undermining the efficiency of business.” (Federal Charters, 1974, p. 249) Erickson was not referring to the newly created Alaska Native corporations but to the corporation as it existed in America at that time. His views are noteworthy because his contributions to the FritzGerald Commission were likely considered when its recommendations were made.

The corporate charter, whoever issues it, is – at the very least – a statement of goals. (Peter) Drucker has been at pains to point out that decentralization can only be implemented successfully if the leadership at the various organizational levels is committed to common goals, and only if all see themselves improved by the achievement of those goals. (Federal Charters, 1974, p. 249)

Undoing Federal Assimilation Policy

Federal Indian Policy from the 1930s until the passage of ANCSA “showed that the assimilation policy had led to a great loss of Indian land and an overblown administrative bureaucracy while the Indians’ economic advancement and their readiness for initiatives was not promoted. The Meriam Report (Meriam, 1928) further revealed the deplorable socioeconomic situation of America’s indigenous populations: their dire poverty, their high child mortality rates, the generally poor state of their health, their appalling living conditions and an altogether inadequate level of education.” (Frantz, 1999, pp. 30-31)

The Meriam Report led to more liberal Indian policies which were framed in the Indian Reorganization Act (IRA) at the beginning of President Franklin Roosevelt’s era

and lasted until shortly after the end of World War II. (Frantz, 1999, p. 31) What is noteworthy is that the IRA is often hailed as an advancement of Alaska Native governance and is seen by Alaska tribes as the authority on which their official federal recognition comes. There was, however, unlike and unseen during the ANCSA negotiations anything similar to what the Pueblo Indian communities did which was to object to the federal government forcing on them the American form of government. They objected to the IRA because it would force them to mimic the American model.

After fifty years of a policy aimed at undermining them, the tribes now were offered the possibility to form themselves anew with an elected tribal court and police system. A considerable number of the tribes – including most of the Pueblo Indian communities of the Southwest and, at first, the Navajos – objected to this offer, however, as it would have obliged them to copy the United States model which was foreign to their culture.

(Frantz, 1999, p. 31)

The negotiators or, perhaps it would be better to described them as interested parties, worked to come up with a settlement that they would understand and there were no visible signs of anguish or protest as what a corporate system might entail. As noted above, former Attorney General Ramsey Clark maintains, the lawyers were imposing their culture, which they understood very well, on the Alaska Natives.

Managing the For-Profit Corporations

The transformation of aboriginal peoples from communal governance of land and natural resources to corporations owned by shareholders happened quickly. On

December 18, 1971 Alaska Native ways of doing and thinking changed to what the Settlement Act required – organizing as for-profit business corporations along the geographic boundaries of the non-profit, community advocacy Alaska Native associations. [Public Law 92-203, Sec. 7(d).] Subsistence hunting, fishing, and gathering began to lose its allure as the status of a corporate directorship grew.

Were Alaska Natives adequately prepared to receive a land settlement of such magnitude as a corporate asset along with a cash settlement which would be managed under the corporation system? It was a hotly debated question during the 1970s because of low education attainment levels; high poverty rates; remote locations in scattered villages without transportation and communications infrastructure; and, a general lack of lawyers, accountants, administrators, and other professionals who understood the Alaska Native culture. They were entering a well-established system of governance that was alien to generations of their traditions and cultures. Unlike the Pueblo Indians, there was no objection. It was simply an acceptance that the establishment of Alaska Native reservations would not occur.

Since the passage of the ANCSA and the growth of the Alaska Native population since 1971, an increasing percentage of Alaska Natives are not enrolled in any regional corporation and increasingly the question is being asked, why? Where did the corporate system originate, why did it originate, and why would only those alive on December 18, 1971 be eligible for ownership of original shares of stock? While many attempts to answer the questions have been made, the responses have been accepted almost in a state of disbelief. How could the following generations be so easily and quickly forgotten,

particularly of the fact almost every Native American treaty with the United States was predicated on preserving the rights and heritage of the following generations.

While there are many unanswered questions regarding governance of the settlement corporations, it is probably safe to assume that corporate governance did not emerge from the Alaska Native leadership or those in the villages who maintained a subsistence lifestyle of hunting, fishing, and gathering. During the period following the act's passage, and non-Alaska Natives were heaping praise on the corporate system, there is little evidence of any Alaska Native leaders boldly stepping forward to claim the prize for originating the idea. By the early 1990s, responses to the questions raised by 'afterborn' Alaska Natives, such as Patience Merculief and Gloria O'Neil, went unanswered. Times had changed as the 'afterborn' Alaska Natives matured and reached adulthood in full comprehension of being left out of ANCSA.

ANCSA corporations were formalized in 1972 and by 1982 the evaluations on Alaska Native corporations started to appear. In three paragraphs, *The New York Times* summed it up.

There is a roller-coaster quality to the collective business performance of the [Alaska] native-owned corporations that were created 12 years ago by the Alaska Native Claims Settlement Act. Blessed by huge grants of natural resources and endowed by huge injections of Federal and state cash, these corporations have run through almost the full gamut of American business experience over the years. Some have established solid earnings records; others have come perilously close to bankruptcy.

In some instances the Eskimo, Aleut and Indian shareholders brought in outside executives to run their affairs. Sometimes outsiders have done well, sometimes not. (Turner, 1983)

Germinating the Corporate Seed

During the Alaska Native Review Commission hearings, Natalie Susuk of New Stuyahok testified as to how it was during those early days of corporate formation.

As we know, these (corporate) officers-representatives were originally chosen for the fact that they would attend to business matters relating to a profit corporation. These representatives may or may not have as much convictions as others on the issues of subsistence and land retention, which seems to be the main concern of most Alaska Natives I know. We shouldn't expect corporation officers to represent our interests. (Berger, 1985, p. 9)

In the 1960s a new theory on the practices of corporations began to take shape. Academics were theorizing and debating the emergence of new thoughts on corporate social responsibility that were evolving from concerns about the environment, civil rights, the Vietnam War, and human rights around the globe. Milton Friedman and the free market schools of Chicago and Austria began to clash with Keynesian economics that had become the predominant economic theory since President Franklin Roosevelt embraced it in order to spur economic growth during the depression years.

The national discussion on the evolution of economic thought from John Maynard Keynes to his theoretical nemesis Milton Friedman on the role of government in the free

market place no doubt had an influence in the fast changing Washington, D.C. public policy and political environment of the 1960s and 1970s. President Johnson's Great Society programs changed the face of America and brought new energy to old ideas of civil rights and economic justice but the New Deal policies of Franklin Roosevelt had little impact on Indians. There seemed to be no will to replicate them in the last frontier.

Lower 48 Indian reservations were pockets of poverty. The social statistics were numbing as was the stereotypical image.

An Indian reservation can be characterized as an open air slum. It has a feeling of emptiness and isolation. There are miles and miles of dirt or gravel roads without any signs of human life. The scattered Indian communities are made up of scores of tarpaper shacks or log cabins with tiny windows and a stovepipe sticking out of a roof that is weighted down with pieces of metal and automobile tires. These dwellings each of them home for six or seven persons, often have no electricity or running water – sometimes not even an outhouse. The front yards are frequently littered with abandoned, broken-down automobiles that are too expensive to repair and too much trouble to junk. (Sorkin, 1971, p. 2)

In 1964 statistics, the median income for reservation Indians was \$1,800, \$3,400 for non-whites and \$6,283 for all males. (Sorkin, 1971, p. 9) In 1967 the unemployment rates for reservation Indians was 37.3%, 6% for non-whites, and 3.1% for all males. (Sorkin, 1971, p. 12) For education attainment, the reservation Indian between the ages of 20-24 had 9.2

years of school completed while those 65 and older completed 3.5 years. (Sorkin, 1971, p. 38) By 1971, Milton Friedman's economic theories seemed ripe to put to practical use.

Friedman's free market theories began to take deep roots in the nation's capital following the Johnson presidency of social programs and more restrictive government intervention. He conceptualized his theories in his 1980 book *Free to Choose*.

Economic freedom is an essential requisite for political freedom. By enabling people to cooperate with one another without coercion or central direction, it reduces the area over which political power is exercised. In addition, by dispersing power, the free market provides an offset to whatever concentration of political power may arise. The combination of economic and political power in the same hands is a sure recipe for tyranny. (Friedman & Friedman, 1980 (1979), p 3.)

The Corporate Seed

In the 1960s, Civil Rights leaders like Martin Luther King, Jr. and Malcolm X were questioning how the world's wealthiest and most powerful country had so many poor people restrained because of racism, bigotry, and prejudices. The old ways of doing things were not acceptable to thousands of blacks – and American Indians – who returned home from World War II in the Pacific and European theaters where other people treated them as equals. Racism and prejudice seemed to be alive only in America where poll taxes; transportation (back of the bus); separate seating based on color in theaters and at lunch counters; and, even in colleges where admissions officers requested that a photograph accompany application for admissions.

By 1970, Nobel laureate economist Milton Friedman's publications and essays were widely praised and cited. In a *New York Times Magazine* essay he said "social responsibility does not belong in business." (Friedman, 1970)

Friedman's essay generated discussion on ethics and was quoted by Stanford University Professor Jeffrey Pfeffer in his book on corporate governance.

In a free-enterprise business, there is no room for such a thing as 'social responsibilities of business,' for responsibilities can only accrue to individuals, never to groups such as corporations. Certainly, as an individual, a manager or executive may recognize or voluntarily assume some 'social responsibility' towards his community or church, for instance. 'But in these respects he is acting as a principal, not an agent: he is spending his own money or time or energy, not the money of his employers or the time or energy he has contracted to devote to their purposes.' (Sison, 2008, p. 4)

Friedman was enormously influential during the 1960s. He had a column in the weekly newsmagazine, *Newsweek* (1968 to 1978) and in 1976 was awarded the Pulitzer Prize in Economics.

The seeds of private corporate ownership of the assets of a yet-to-be Alaska Native land claims were sown during a time of conflicting economic theories, spewing over into national politics. The liberalism of Lord John Maynard Keynes, which had taken hold of U.S. Federal Government economic policies in the 1930s, lasted until

President Ronald Reagan's election in 1980. Even Republican President Richard Nixon is famously quoted as saying, "we're all Keynesian now." (Pealstein, 2008)

But, the winds of change in economic theory in federal policy-making were changing slowly. Friedman's stature grew immensely in Senator Barry Goldwater's 1964 losing presidential campaign where he served as Economics Adviser.

In ground fertile with free market ideas and pockets of poverty throughout the country, and even though a fair, just, and equitable land settlement was second seed to the interests of oil, bold experimental ideas took root with the Alaska Native cause. Corporations owned by shareholders of Alaska Native blood blossomed in Alaska.

Secretary Udall's Trust Responsibility

The question of Alaska Native land claims arose in 1963 when a group of twenty-four villages asked Secretary of the Interior Stewart Udall to impose a "freeze on all land transfers in disputed areas, request echoed by the National Council on Indian Affairs." The Secretary took no action and the only serious proposal was "to work with the State of Alaska in getting the [Alaska] natives title to some of the lands which they claim." (Clarkin, 2001, p. 249)

Somewhere along the way the corporation seed was planted and it began to grow slowly, almost unnoticed as the federal Department of War and Department of Interior concepts of the 1800s of how to deal with Alaska's 'Indian Problem' were discarded. Alaska's Eskimos, Indians, and Aleuts were too few, the land too vast and the mentality of the leadership was too tied to frontier concepts. The governments headquartered in faraway places such as Juneau, Alaska's capital, and Washington, D.C. were easy targets

of angry Alaskans who wanted to do whatever they wanted – mining, forestry, fishing, and pay no sales, property or state income taxes. Contrasting that was the social turmoil that erupted easily – and often – on colleges throughout the United States. Old ideas tied to reservations and patronization were not applicable to the Alaska of the 1960s where the business and political classes made up of mostly immigrants found those ideas unacceptable, but a good starting point of how to deal with the Alaska Natives.

Senungetuk's Hide Box

In Joseph Senungetuk's book, *Give or Take a Century*, he talks of a prized possession of the ancient ones, a 'hide box,' made of walrus hide and known to the people of Wales as a place for personal possessions. For others, it was an object of curiosity, for the question was 'what's in the box?' The hide box was an object of curiosity. (Senungetuk, 1971, p. 175)

The book, written and completed in 1970, paints a colorful analogy of what the negotiations process might have been.

Today our life can be described as one of existence in the restricting framework of an alien civilization, an alien Hide Box. Through the government itself and its agencies; through the complete lack of understanding of our culture and history; through the mouths of the teachers and lecturers and statesman who speak for America – we are crushed in a Hide Box. The foreigners who have painted the Hide Box with representations of the Alaska Native culture as savage, useful only as excuses for take-over of valuable Alaska Native land, requiring

‘Christianizing’ to make us more pliable, have done this. The Hide Box, as used by aliens who come among us, has become the embodiment of isolation. Isolation of the [Alaska] Natives while strangers took his land. (Senungetuk, 1971, pp. 175-180)

The imposition of the corporate culture probably was not done with ill will or, perhaps it was. But, just as it was when federal Indian policy was changed without consultation with Lower 48 tribes, the corporate concept of an incubation period started to run after the first land claims were filed in 1963. The lawyers, consultants, accountants, and bureaucrats did not understand the Alaska Native in his element so what they did was put the Alaska Native in the Hide Box and discarded it when they began to superimpose their concepts that they understood very well – how corporations were governed.

Traditional Alaska Native Governance in the Modern Sense

What kinds of governance were the Alaska Natives familiar with so that they could make some comparisons? There were two models in Alaska that Alaska Natives had some familiarity with. The first was the Indian Reorganization Act (IRA) village and the second was municipal government.

After the passage of the IRA (Wheeler-Howard Act, June 18, 1934), the federal Indian policies of privatizing lands held in trust for the tribal members was reversed after almost a half century under the Dawes Act. Under the Dawes Act, from 1887 to 1934, the lands held in trust for tribes went from 138 million acres to 48 million. The severe poverty of the reservations prompted a new deal for Indians under President Franklin

Roosevelt and an American-styled system of governance was implemented whereby tribes could elect governing bodies and enact laws just as other local governments in the U.S. could.

Under the IRA, Alaska Natives were familiar enough with aspects of tribal governments since 62 villages had adopted constitutions and were certified. The villages had constitutions but no reservations set aside. The opportunity for any to lead and to partake in the decision-making process was preserved for all in a U.S.-styled tribal constitution.

A northwest Alaska village, Unalakleet, requested in 1948 that a reservation be established by the U.S. Interior Department so they could have self-government; one of the purposes of which was to prohibit the transportation and importation of alcohol because of the devastating effects it was having on the residents. (Mitchell, 1997) A land base in a Lower 48 Indian reservation-styled government to government relationship with the United States could presumably do what the Territory of Alaska was unwilling or unable to do. Nome, a rough and tumble mining town-turned-military outpost consisting of numerous bars and liquor stores, was just 90 miles away. With reservation status, Unalakleet Alaska Natives could govern their own reservation and implement those ordinances not prohibited by the IRA constitution.

Eagle, a mining town on the Yukon River near the U.S. Canadian boundary, was the first city incorporated in the Territory of Alaska when its citizens voted in 1901 to have the powers of local government common to other municipalities in the United States. The Han Indians of the area were, however, not allowed to vote and the U.S.

Congress did not give voting status to Native Americans until 1924. (Indian Citizen Act of 1924, Ch. 233, p. 253) Several predominately [Alaska] Native towns were incorporated prior to Alaska statehood including Barrow (1958), Bethel (1957), Nome (1901), and Kotzebue (1958). While Nome was, at times up to 80% Eskimo, it was not until the 21st century that the residents elected their first [Alaska] Native mayor. (The Associated Press, 2003)

Towns in the territory discouraged voting by the Alaska Natives. In Ketchikan in March 1923, Charles Jones was indicted by a federal grand jury for voting and swearing under oath that he was a citizen. Also indicted was Tillie Paul for aiding and abetting. Both were Tlingit Indians. A bench warrant was issued for their arrests. At trial the jury found for Jones and the federal district attorney dismissed the charges against [Tillie] Paul. (Paul, 2003, pp. 43-44)

While municipal or tribal governments are somewhat similar to corporations in governance, there are significant differences. And while it can be reasonable to assume that Alaska Natives did not mistake local governments and corporate governance in 1971, it can also be reasonable to argue that it could have been the only forms of governance the Alaska Natives were familiar with. It may have been close enough for the Alaska Natives to be led to believe that it would be a system of governance that they would have voices for all and promises of participation for any that wanted to be involved – just as it was with hunting, fishing and gathering in the subsistence economy of rural Alaska.

Governance in the Corporate System: The Superimposition of an Alien System

Walter Johnson of Anchorage described at the Alaska Native Review Commission hearings in Anchorage the difference between an ANCSA corporation and a publically-traded corporation this way:

The corporate structure has been set up for a person to put whatever amount of wealth that he wishes to put into that corporation. But, no, not the Alaska Native. The Alaska Native put everything, the land, the money, and according to ANCSA, they put their birthright and everything else into that corporate structure that we hate so much. (Berger, 1985, p. 36)

The expectations and intent over implementation of the settlement act are part of a growing debate as more and more ‘afterborn’ Alaska Natives mature and realize the enormous wealth of the subsurface estate in an area approximately the size of Missouri. The Alaska Native population growth coupled with the Congressional issuance of 6.5 million original shares is a growing gap likely to split families and communities and aggravate the tension between rural and urban residents. That tension exists in 2013 and is apparent but is often explained in terms of Alaska Native vs. non-Alaska Native and the underlying tones of prejudices and bigotries.

The Challenges of Change

Congress has always recognized the peoples’ right to change the law through pressure on elected officials; for amendments to the U.S. Constitution; or in response to economic recessions. Congress did not decide how the ‘afterborn’ Alaska Natives were to

be treated nor did Congress even vaguely suggest that the kind of governance of a publically traded corporation was to be used in the new Alaska Native corporations.

The changes did come and they came fast. Congress reacted to pressure from Alaska Native corporations and implemented changes in policies, laws, and the IRS Code for such favorable treatment such as sale of net operating losses, tax-free status of dividends, special elders' payouts, and extended the limitations on the sale and transfer of stock in the corporations. These were revolutionary ideas because of the uniqueness of the corporations so it is easy to assume that Congress expected the Alaska Natives to develop their own rules and their application, not to be poor imitators of corporate free market ideas.

The 1950 census showed there were 128,643 residents in the Territory of Alaska but what is more significant is the growth during the war years. In the 1940 census, the population was 72,524 a demonstration of World War II's effect on Alaska. The Alaska Native population grew from 33,863 in 1950 to 43,081 in 1960 and in 1969, one year before passage of the Settlement Act, the Alaska Native population was 51,712. While the 2010 census has 722,718 Alaskans counted with 14.9% Alaska Native, the significance is in the counting of those who consider themselves multi-racial. The Alaska Native Health Consortium estimated the Alaska Native population in 2006 at 131,002 which is less than the official census in 2010. The projected 2030 Alaska Native population is 162,820. (U.S. Census Figures, 2010)

The Settlement Act restricted the number of shareholders, requiring only two things; first, be alive on December 18, 1971 and, second, be at least one quarter Alaska

Native blood. When the number of eligible persons was determined, the total number of shares issued was approximately 6.5 million (100 shares per Alaska Native). The numbers offered vary according to when and who gets counted.

With the growth of the Alaska Native population and total number of shares restricted (for those receiving 7(i) profits), the gap between those who will receive a share of the profits from resources development and those without original shares will widen. This will likely create tension and confusion as is common between those who have and those who wonder why they do not have. It is likely to split families and close friends as money disputes often do. To be fair, several of the larger regional corporations have attempted to address this issue by creating a class of life estate stock for the new Alaska Natives but it is only a partial remedy and does not affect the finite number of shares eligible under the original act for 7(i) profit sharing.

In a 1986 study by the U.S. Department of the Interior it was reported that approximately 80,000 people enrolled for shares under the Settlement Act. The number of people who claimed to be [Alaska] Native in the 1970 census was about 30,000 less but the Alaska census does not count the number throughout the nation. (U.S. Department of the Interior, ANCSA 1986 Study)

In another study, this one done by CIRI in 1983, the number of shareholders in regional corporations had decreased. NANA went from 4,828 to 4,628; Bristol Bay Native Corporation, 5,401 to 5,238; AHTNA decreased by 70 shareholders to 1,004; and, the Aleut Corporation dropped to 3,144 from 3,249. (CIRI, Shareholder Study, 1983)

Since 1971, the Alaska Native population continues to increase and by 2030 it is projected to be over three times the 1970 census.

Several of the regional corporations have created a new class of shareholders for those born after December 18, 1971. Sealaska, Inc., Doyon, Ltd., NANA, and Arctic Slope Regional Corporation have enlarged their shareholder numbers significantly but it should be noted that there are differences between an owner of original shares and an ‘afterborn’ shareholder. An owner of original shares can give his or her shares to family members or by death leave his or her shares to anyone in the world. Perhaps more significant is that only owners of original shares will share in the profits from the development of the subsurface estate and timber harvesting on regional corporation lands.

While there are major differences between Alaska Native corporations with a publically traded company, the application of the publically traded corporate culture, mores, board election process, and management structure appear to be replicated in the Alaska Native corporations and on many of its shareholders. Management’s never ending public relations campaigns convince some shareholders that the corporation is doing well. This ‘trust me, we’re doing it for your own good’ attitude is patronizing and may obscure problems that will bite the corporation and its shareholders at a later time.

In the formative years of the ANCSA corporations, annual elections of directors were the norm. The process changed as disgruntled shareholders voiced strong opinions on business operations and directors’ behavior at annual meetings that found little favor with the incumbents. Management and directors determined to maintain control of the

board, or angling to gain majority control, adopted the processes and tactics used by publically-traded companies.

The tactics often used by regional corporations include listing only candidates on the ballot deemed qualified by a board committee appointed by a majority of the board and then using corporate funds to ensure that candidate's election. Other tactics include cumulative voting; originally used to ensure the election of non-board nominated candidates.

In publically traded corporations the trend is towards more shareholders' rights and towards corporate democracy. Under traditional procedures, shareholders have had limited options for voting their shares in any corporate election: shareholders could vote in favor of the company's slate of nominees or withhold their votes for one or more of these nominees. One consequence of this arrangement: even if just one share was voted in favor of a company's nominee to its board of directors, he or she would be legally elected to the board.

With the last few years that has largely changed. In 2013, over two-thirds of large public companies have adopted a form of majority voting. Under the new rules, if any of the company's nominees for director receives less than a majority of the votes cast at the annual meeting of shareholders, that nominee must submit his or her resignation to the board. At these companies, an institutional investor can now lobby other shareholders to withhold their votes on a particular candidate and stand a chance of forcing that candidates' withdrawal. (Pozen, 2009)

How soon Alaska Native corporate boards will adopt new rules to allow for more shareholder influence remains unpredictable. The cost of running an independent campaign is prohibitive and management often uses control of mailing lists of shareholders to their advantage. In Alaska Native corporation elections the timing is everything. When the shareholder running for office mails out a proxy solicitation to the other shareholders determines when those shareholders will return the proxy to the shareholder running for office. Often, early-bird proxy return deadlines mean the shareholder can win a cash prize for submitting a proxy vote as soon as possible. The board approved candidate will likely have access to the mailing list sooner than other candidates and this means the voting shareholder will have that proxy solicitation before he or she has received the proxy solicitation from the shareholder who is running for office. The new candidate has little chance of winning a seat on the corporate board.

There is an over abundance of evidence to show that the fundamental moral views of the Alaska Native in the 1960s, including editorials in *The Tundra Times*, a statewide Alaska Native newspaper; testimony before Congressional committees; letters to the editors; political campaigns of various candidates for legislative and statewide office; and sermons from the pulpits of various denominations all made arguments for a governance that bears little resemblance to the current system of governance in the Alaska Native corporations and, arguably, the use of heavy handed tactics that silence those who seek participation in a 'pure' corporate democracy.

Chapter 3

Prelude

Social media has brought Tom of St. Louis and Robert of UAF within seconds of each other. Since the annual shareholders' meeting they have exchanged numerous emails as they discuss their corporation. Robert is envious of Tom's 100 ANCSA shares, which return an average of \$75,000 yearly in dividends, while his one village corporation share averages \$450 a year, which barely covers a one-way ticket to his parent's village on the Y-K Delta. It does not bother Robert that Tom got a job offer to work in the corporation's branch office in Chicago since Robert has no interest in working in the Lower 48. Robert is pleased that Tom is interested in Yupik Eskimo culture and thinks that Tom, though a non-Alaska Native, will insert Yupik ways into the corporation — eventually.

The corporation's newsletter is delivered electronically and is updated often with the latest business developments around the world. Since their corporation was created by ANCSA, business opportunities created under the Indian Commerce Clause of the U.S. Constitution have been used to open doors with the federal government similar to and in conjunction with the minority programs for African-Americans, Hispanic-Americans, and Asian-Americans. The minority defense contracts were once a small part of the revenue base of the corporation but today they rival resource extraction.

The current issue facing the management and the board of directors is what to do with 50,000 acres of wetlands that the corporation's mining and engineering subsidiary has deemed worthless. The board is weighing a proposal, backed by a national

environmental lobby, for the federal government to buy the acreage for a fish and wildlife refuge. Robert told Tom that his village's tribal council has voted against the proposal because it would put the land off limits for duck, geese, moose hunting and berry picking which the elders like to do. The corporate board has promised the shareholders that the sale proceeds would be redistributed to the shareholders at about \$1,000 a share (Tom would get \$100,000 and Robert \$1,000). Robert is urging Tom to vote no, but Tom has a convincing argument that he has bills to pay having spent last August in Paris while Tom was hunting waterfowl in the Y-K Delta with a cousin and an uncle.

The management's newsletter is in favor of the sale of the wetlands and in a letter jointly signed by the board chairman and the president/CEO, they said that the shareholders could use the redistribution check for such things as paying down mortgages and paying the off the credit card bills used during the holiday shopping season.

ANCSA Shareholders and Corporate Participation

In the book *Successful Corporate Democracy: Sustainable Cooperation of Capital and Labor in the Dutch Breman Group*, the author emphasizes participation by members. “

Corporate Democracy has taken (sic) on many meanings. In its most general definition, it refers to a system of democratic governance embedded in a supportive organizational structure that at least includes shared residual claims by all members in combination with democratic decision-making rules. Democratic decision-making rules offer

opportunities to all organizational members to co-determine the organization's personnel, social, and economic affairs. Shared residual claims imply that the organization's profits are distributed across employees, managers, and owners according to co-determined allocation rules, while buffering the organization against non-democratic aggression by outside parties. A supportive structure guarantees the smooth functioning of democratic successes. (de Jong & van Witteloostuijn, 2004)

The definition of the term corporate democracy is elusive and evolving, praised by some as a system of corporate governance to bring equality and voice to the shareholders of for-profit, publically traded corporations and condemned by others as inapplicable to commercial entities. The above quote by is one of many definitions and it applies to publically traded companies and not to privately held corporations created by act of Congress. There are some aspects of corporate democracy as applied to publically traded corporations that are not applicable to Alaska Native Corporations created by ANCSA. The approach of this paper is to frame the questions from a shareholder's perspective as opposed to management's attorneys doing so from the legal perspectives of publically traded companies.

There are certainly numerous benefits of holding the shareholders wealth in corporate stock. Advocates of corporate democracy are criticized for having somewhat limited understanding of corporate obligations. That shareholders are the 'owners' and that corporations are 'democracies' are said to "rest on a weak understanding of corporate

law and the elements that have made corporations successful as economic actors.”

(Wallison, 2007, p. vi) The loss of shareholder status and the assumption of ownership would result in the investors losing their limited liability status.

In fact, if operation control is the key indicator of ownership, then, under most corporate laws, the directors are much closer to being the owners of corporations than the shareholders. It's the directors who have the right and authority by law to direct the affairs of the corporation and they establish the corporation's major policies and elect and supervise the managers. (Wallison, 2007)

In both the ANCSA corporation and the publically traded corporation the legal responsibilities are the same. “As a formal legal mater, the duty of directors is to act in the best interests of the corporation, not the best interests of the shareholders.” (Wallison, 2007) This is a concept that is - perhaps - not fully comprehended by most Alaska Native shareholders who demand that the corporations serve shareholders and not the corporation itself.

The assumption is that if the corporation succeeds, the shareholders will benefit. In legal reality, shareholders are much more like the beneficiaries of a trust than they are like the owners of a piece of property. There is no arbitrary development. The corporate form developed because, by centralizing authority to use capital in a board of directors, distinct from the shareholders, it promoted the creation of economic value. (Wallison, 2007)

Perhaps the regional corporate leadership over the decades has, as a matter of convenience rather than assuming the responsibilities of serving Alaska Native shareholders, is confused in that they have swung hard to the right into the arms of market-driven theorists. With ANCSA corporations the shareholders have equality of ownership established by law.

Again, perhaps, regional leadership has adopted the assumption that ANCSA corporations are market-driven and not political entities. If so, though it is absurd, and, perhaps, a good fit for the description of the publically traded corporation quoted above from *The American* online magazine.

ANCSA corporations were created in a political process by politicians serving various interests. Perhaps the following quote by Arthur Levitt, the former chairman of the Securities and Exchange Commission, applies more to the congressionally created ANCSA corporations than to publically traded companies.

Ever since the recount of 2000, partisans of both parties have paid particular attention to everything from who votes to how they vote and how their preferences are recorded. Counting every vote is not only integral to our political life; it is central to our economic life as well.

Shareholder capitalism enables our markets to thrive, our companies to grow and our economy to remain strong. And central to this system is the principle that shareholders can have a voice in the running of the companies they own, that their votes will count. (Wallison, 2007)

It must be made clear as to what some think is a political democracy versus corporate democracy in a publically traded company.

Here is a complete confusion between the idea of voting in a political democracy and voting in a corporation, and a complete confusion about the role of shareholders under corporate law. Voting in a political democracy decides the values of the nation. It is necessary because citizens, unlike shareholders, cannot as easily change countries as they can change investments. What is voting by shareholders supposed to decide - the amount of the dividend, where the next factory will be built, or whether to expand into a new market? Shareholders are not supposed to manage corporations, and if they do they will lose their limited liability. And if they are 'owners' they don't, under corporate law, have any of the powers to control and dispose of the company's assets that we usually attribute to people called 'owners.' (Wallison, 2007)

Whether it was intentional or by accident, and whether it was understood as such by the beneficiaries, when the U.S. Congress passed the Settlement Act (P.L. 92-203), they created a form of corporate governance that was unique in almost all aspects. One unique aspect was that all eligible Alaska Natives, those born on or before December 18, 1971, were created as equal shareholders. Ideally, this creation of a privately-held, democratic form of corporation represented Congressional intent to protect Alaska Native culture and traditions by preserving common ownership of the land and natural resources. An unintended consequence of the superimposition of the western corporate model of

governance over the Alaska Natives and their communities has created suspicion and distrust among those families and communities. This occurred primarily because of the failure to include the system of traditional Alaska Native ways of governing and formal establishment of common ownership rights.

The traditional form of Indian government probably does not exist in the United States in the sense that it is not recognized by either state or federal governments. What has come to be known as Indian governments are those authorized pursuant to the Indian Reorganization Act (IRA) passed by Congress in June 1934. (Indian Reorganization Act, 1934) The IRA, also known as the Wheeler Howard Act, did not require a tribe to adopt a constitution but if it did it had to allow the tribal council to employ legal counsel and authorized the tribal councils to negotiate with local, state and federal governments. The IRA was amended in May 1936 to apply to the Territory of Alaska and authorized Indian tribes to adopt a constitutional form of government. (Indian Reorganization Act, amended, 1936)

One of the major criticisms of the IRA and its application was that it was foreign to the Native American tribes. The concept of American democracy, which bore little resemblance to traditional tribal governments, was proposed to the Indians. In *A History of Indian Policy* (1973) it stated,

Constitutions were not properly prepared for particular groups. The philosophy of the IRA itself was violated in that the Indians did not play a truly significant part in preparing these documents (lack of qualified

Bureau personnel). As a result the meaning of these instruments of government was often quite foreign to them. (Tyler, 1973, p. 132)

When the IRA was amended to include the Territory of Alaska, it was also foreign to Alaska Natives. Alaska's residents were not full-fledged citizens and Native Americans had only been recently (1924) granted the right to vote. Many shareholders now wonder whether this has established a culture of greed and self-aggrandizement; accompanied by self-serving definitions of ethical and moral conduct. What was not misunderstood by the Alaska Natives who would become shareholders in 1971, were their expectations. Common ownership, rights of participation, and equality in voting were expected to be formally incorporated in a model that was neither western nor restricted, and would reflect Alaska Natives' desire for a fair, just, and equitable settlement of their land claims. Because of time pressure; advice of the professional classes (lawyers, accountants, et. el.); and government rules and regulations, the Alaska Natives' expectations and understandings of their intent were frustrated to their detriment.

Since the beginning, and perhaps even during the negotiation period of the Settlement Act (1966 to December 1971), the efforts of the Alaska Federation of Natives (the official negotiating entity) was intended to build a Alaska Native corporate model that reflected the values and culture of America's standard 1971 corporate structure. This mirroring continues in 2013 even as modern day academics, regulators, and shareholders explore ways to redefine corporations to reflect more modern images of virtue, character, and ethics. Alaska Native corporations appear to be stuck in the 1971 mindset which in

and of itself was a reflection of the cultures and ethics of the lawyers, consultants, and managers and not a reflection of traditional forms of Alaska Native governance and ownership of common property.

When the IRA was proposed by the administration of President Franklin Roosevelt, after two centuries of failed policies, the Bureau of Indian Affairs (BIA) did something unique - they asked the Indians what they thought of the legislation.

It was recommended that the Indians themselves be allowed to express their opinions in relation to the proposed legislation, and that finally they should have the privilege of voting on whether they would choose to accept the legislation on behalf of their tribes or not. (Tyler, 1973, pp. 129-130)

The BIA convened the tribal leaders and explained what the legislation was and invited different points of view. The leaders met in their countries (Indian reservations are dependent, domestic nations) and listen but made no commitments to support or not support the IRA. They came to listen and then to carry back the messages to their tribes. (Tyler, 1973, p. 130)

The Alaska Native claims legislation is in sharp contrast to the deliberative nature of how the IRA was created. The vote on whether to adopt ANCSA on was rushed. Both Congressional had monumental impacts on present and future Native Americans. IRA was deliberative, ANCSA was not.

On Tuesday, December 14, 1971 the House of Representatives passed the land claims bill and the U.S. Senate then approved the legislation by voice vote. The

following Saturday, December 18, 1971 the Alaska Federation of Natives met in special convention on the campus of Alaska Methodist University. “Only the Arctic Slope Native Association, representing 4,500 Inupiat Eskimos on Alaska's oil-rich North Slope, and the Washington state native delegation voted against acceptance of the bill. The vote was 511 to 56.” (The New York Times, 1971) The devil of governance was in the details.

The president of the federation, Donald R. Wright, said, ‘By no means is it over, this is just the beginning. This is a very serious and important day in history. It would be reasonable to ask for assistance from the business, social and political communities of Alaska in working out the details of the settlement and I'm sure they will be cooperative.’ (The New York Times, 1971)

Transparencies and Shareholders

Corporate democracy in Alaska Native corporations increases the opportunities for transparencies which most likely would make it more challenging to practice or justify unethical behavior. The likelihood of concentration of power in management and the board would be weakened. And, perhaps, there would be fewer tendencies to legitimize the appearances of corrupt practices established by precedence during a time when the experience and education attainment level of the board was at its lowest.

In dealing with non-Alaska Native consultants or managers there have been cases where the element of trust has been abused. Perhaps the most notorious of the cases involved a village corporation and a regional corporation, and their banker. Sitnasuak

Native Village Corporation won its civil case against Alaska Bank of the North for the granting of access to the Sitnasuak accounts to Bering Straits. “According to Judge Mark C. Rowland of the Alaska Superior Court in Anchorage, the Alaska Bank of the North breached its trust with the village corporation by allowing more than \$2.2 million to be lost through bad investments by Eskimos it was supposed to advise.” The bank's president at the time was Frank Murkowski who won election to the U.S. Senate in 1980, the year the suit was filed. (Turner, 1987)

Because most of the Alaska Natives who became original shareholders after implementation of the Settlement Act were under-educated and lacked experience in business and corporate matters, corrupt and unethical practices often went unnoticed simply because what was unethical or corrupt was not known under a business or corporate definition.

Alaska Native corporate shareholders have to recognize that managing a corporation in a competitive world is an exposure to risk. If it is widely believed among the shareholders that the land is closely tied to traditions and cultures, then even with some legal protections the land and all of its natural resources are subject to loss either through sale or long-term leases and thus a decline in traditional and cultural values.

The growth of corporate power can go unchecked and as demonstrated in U.S. history, until the people demand that the political leadership take action to curb the power and might of the corporations

In the United States, in the late 1880s, the growth of the corporation was so large and so powerful that it took political leadership from the top to lead the populace to pass

the legislation. President Theodore Roosevelt's leadership (1901-1909) was unwavering and focused on protecting the national treasures that were subject to corporate ownership. During the 1920s, free market ideas reigned throughout commerce because corporations again ruled the roost. It all came crashing down in October 1929 when the U.S. stock market crashed. Regulations implemented by President Franklin D. Roosevelt's administration (1933 – 1945) sharply curtailed unchecked corporate business activities that crossed state boundaries. President Roosevelt's regulation policies on big business were changed under the Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter administrations (1945 – 1981). During President Carter's four years in office the U.S. and world economy suffered stagflation. Because of this recession Carter was defeated by Ronald Reagan in 1980. During the Ronald Reagan administration the country experienced tremendous growth in part because President Reagan reduced taxes and regulations on big business. Growth and prosperity continued during his 8 years in office. A small recession occurred during President George H. W. Bush's 4 year term. During President Clinton's eight years in office (1993 – 2001) the peacetime economy expanded especially during his second term when he lowered taxes and reduced regulations. President George W. Bush (2001 – 2009) took office in January 2001, dealt with the attacks on September 11, 2001, and wars in the Middle East. He left office in 2009 with the economy in a recession. President Barak Obama (2009 – 2017) inherited the 2009 recession and that recession continued into his second term (2013-2017).

Though the Alaska economy is tiny compared to many of the other 49 states, the influence of the Alaska Native corporations is large. Perhaps in time the Alaska voters

will demand that regulatory action be taken or an environment be created where the shareholders can lift the curtain so they can have participatory opportunities to discuss the business of these privately-held corporations created by the Congress.

Raising the Question

Just as the federal government has stepped up at different times during the history of the United States to further define legitimacy and what are illegal tactics or actions, the question of illegitimate power over Alaska Natives needs to be raised. Dr. Dennis M. Ray, the Chair of Global Strategy and Management at the University of St. Thomas in Minneapolis, MN, does this in his 2005 discussion of

... unlegitimated (sic) power. The power of corporations over our collective lives continues to grow. From the perspective of an individual citizen, corporations are largely unchecked, unlegitimated (sic) concentrations of power. If corporate boards select management and senior management shapes the selection of the boards, from where does the legitimacy of huge concentrations of corporate economic and political power come? Self-perpetuating and self-serving corporate oligarchy not only fails to deliver sustained social responsibility, it violates a basic premise of democratic theory with regard to participation and representation. Even when some corporations behave ethically and responsibly, we have a situation akin only to 'benevolent monarchy.'

(Ray, 2005, p. 97)

This statement is clearly applicable to Alaska Natives given the ANCSA corporations are duplicating the western corporate model.

The similarities that Alaska Native corporations have with publically traded companies are the result of the adoption of their rules and procedures. It does not have to be this way. Alaska Native corporations were created in 1971 as an effort to find out what might work in resolving the dilemmas faced by Native American populations. The reservation system and the Alaska Native corporate system still leaves Native Americans with some of the worst social and economic statistics upon which a society is judged. Whether it is alcohol, violent crimes, or education attainment levels, Native Americans are still at the bottom of the national society in 2013.

Participation Promotes Change

The results that come from allowing opportunities and encouraging greater participation in any corporation can create an effective forum for positive change. The foreword in the 2008 academic study *Corporate Governance and Ethics* states that reforms have made little difference in eliminating corruption in publically-traded corporations because of the mindset.

The mindset that seems to dominate current discourse all over the world is one that emphasizes ends, achievements and objectives, and plays down the means and process employed in their attainment. In business and in society more generally, we do not look too hard at the price paid for 'success.' (Sison, 2008 p. 36)

Thus, the answer to this question is simply that we need corporate democracy because the system is corrupt.

It should come as no surprise that the practice of corporate governance fails, precisely because it has been built on the wrong pillars atop the vices of individualism and utilitarianism. What we have had so far is corporate governance designed for crooks; it is time to devise one that makes corporate virtue possible (Osterloh & Frey, 2003). (Sison, 2008, p. 36)

While Alaska Native corporations are unique in their creation, and unique in that shares are restricted, for the most part, to family members, presumably, most of whom are of Alaska Native lineage, the superimposition of the western corporate model over Alaska Native corporations makes them appear the same as publically-traded corporations and thus therein lays the implication of corruption probabilities and possibilities.

The often stated reason for corporate democracy is to give voice to the shareholders, to give them an opportunity to effectuate change. But change is time consuming and expensive and is not a new concept. Shareholder participation has been limping along in this modern era, since the 1950s. Alaska Native corporations have demonstrated no particular interest in democratizing their privately-held companies but have been more interested in implementing the rules and regulations of the modern corporation that keep the boards stable and the incumbents on the board. What is interesting that as the world turns, so to speak, and activists are exploring ways to open the doors for shareholder voice and participation, (Lipton, 2012) the Alaska Native corporations have shown little interest in doing this.

While the following quote is written to apply only to publically-traded companies, it can be made to apply to ANCSA corporations.

A board need not, and should not, simply accede to every list of corporate governance “best practices” promulgated each year by governance activists and proxy advisory firms. That said, a board should proactively consider how best to organize itself and its committees to meet the increasing demands and responsibilities being placed on the board. And the board should pay attention to shareholder hot buttons, whether it be the structure of executive compensation, the separation of Chair and CEO, the adoption or maintenance of a rights plan, the use of majority voting in the election of directors, or any other issue, making conscious decisions as to the best choices for the company on these issues and developing clear explanations for these choices. (Lipton, 2012)

Adoption of Election Tactics

Transparency has increased since the 1950s and tactics appear to be the same as those adopted by ANCSA corporations. The playing field is still full of bumps, rocks, valleys, and booby traps. With the mirroring of the public corporation tactics, the specter of unfairness is raised in the privately-held regional corporation elections.

In the 1950s, the concept of corporate democracy began to appear more frequently at the annual meetings of large publically traded corporations in oil and gas, manufacturing, and banks and trusts. Lewis D. Gilbert was on a crusade to democratize the corporations, often appearing as a lonely, outcast holder of proxies at annual meetings

only to be shouted down by management and directors. As then Illinois Senator Paul Douglas said in the foreword of Gilbert's book, *Dividends and Democracy*, the "power of management to seek and obtain voting proxies, even the nominal owners had little to say in the conduct of their properties. That was handled for them by the insiders and the management was generally self-perpetuating." (Gilbert, 1956, p. v)

Gilbert wrote, "While almost any proxy fight offers some opportunity for shareholders to better their condition, this is not to say that the proxy mechanism should not be further shaped in the direction of democracy. As it is now, it often takes hundreds of thousands of dollars to change managements through this device. It often requires a great organization, however hastily thrown together, involving expensive professional proxy solicitors, public relations firms, speakers, tours, literature, costly advertisements, expensive radio and television time, great aggregation of clerical help, accountants, statisticians, economists, stenographers and secretaries, as well as rent and the expense of travel, thousands of telephone calls, letters, proxy forms, and telegrams." (Gilbert, 1956, p. 165)

The situations faced by Gilbert in the 1950s and 1960s appear to be similar to those in Alaska Native regional corporations in 2013. Thus, to change the mindset that is malleable (shareholder acceptance simply because they do not know what are ethical practices) to the unknowing adoption of corrupt practices and policies, the Alaska Native shareholders have to have corporate democracy and it begins with honest and fair elections on a level playing field.

ANCSA: Where All Are Equal

In a populist interpretation of the intent and expectations of the Alaska Natives who supported a fair, just, and equitable land settlement, the definition of corporate governance as applied to ANCSA, must be interpreted to include the fulfillment of intent that all Alaska Natives were created as equal shareholders with none more equal nor less equal than all the others. The expectations must include the deserved respect of all other shareholders by the management and boards of the corporations and the general belief that the social station of the Alaska Native will be financially, mentally, socially, and physically better off than the last generation with each generation showing marked improvements over the previous.

The amount of information in the general public is short on supply and there are few ideas on how to share the wealth if all Alaska Natives suddenly become equal as shareholders. Alaska Natives as equal shareholders would mean they share equally in the wealth which was the intent behind ANCSA 7(i). The simplest way to accomplish this is to have the original shareholders VOTE in favor of putting all monetary rights to the development of resources and other dividends into a fund. Then once a year the money would be divided by the number of shareholders in that Alaska Native corporation and all would get an equal share. The State of Alaska's Permanent Fund Dividend Program is an example.

Such a program, of course, would mean that the original shareholders would lose money since ANCSA is a settlement for those born on or before December 18, 1971 and those rights vested to them when President Nixon signed ANCSA into law.

Equal status as shareholders must also include the expectation that the heart and soul of the Alaska Native peoples must be within the management body of the corporation, including the board of directors. This translates into the further expectation that greed and self-serving ethical determinations will not be tolerated as evident in large bonuses and salaries and the employment of friends and relatives based on political support, which reflect the mirroring of publically traded corporations rather than the privately-held Alaska Native corporations.

As a starting point, in an attempt to define corporate democracy and its application to ANCSA corporations, lawyer A. Gilchrist Sparks, III, offers an interesting perspective. He wrote in a February 2008 article that,

The term 'corporate democracy' is widely invoked by shareholder activists and others as justification for change in the way we select directors of public corporations and the power we vest in those directors once we elect them. It is also a concept heralded by the courts as a justification for the extensive power given to directors under state corporate law. Understandably, in a political society founded upon democratic principles and ideals, there is a natural tendency to analogize and even to seek to export those concepts to the governance of business corporations. However, since nations and business corporations are fundamentally different, to do so in a blanket and unconsidered fashion poses real dangers to corporations as long-term creators of wealth.

Understanding those differences is a first step to understanding what a sound definition of corporate democracy should be. (Sparks III, 2008)

In the above attempt at defining corporate democracy for a publically-held corporation, it fails in any application to privately-held corporations, such as the Alaska Native corporations, for the specific reason that there is no danger to the creation of long-term wealth because the wealth has already been created by Congress in the 44 million acres of land and its subsurface estate. The danger for Alaska Native corporations is that without corporate democracy, the shareholders are in danger of losing that wealth which embodies their culture and heritage.

Applicability of Sparks Article

The Sparks article goes on to state two reasons why corporate democracy is inapplicable to publically-held corporations. These two reasons would be good debate material if there was some applicability to ANCSA corporations. First, Sparks maintains that in a democracy, the voting public is more stable than a publically traded corporation where thousands of shares are traded for short-term or long-term gain. The citizenry in a democracy changes little from election to election. Secondly, Sparks argues that because shares are publically traded, most on a moment's notice depending on gain or loss, there is a high level of disinterest in the long-term financial, economic, and management health of the corporation. Both reasons, while, perhaps, valid with public corporations are not applicable to Alaska Native corporations. Alaska Native corporate stock is restricted and can only be passed by death or gifting and thus, there is a long-term – perhaps generational – interest in the well-being of the corporation.

The Sparks article is a good starting point in this study of applicability of corporate democracy to Alaska Native corporations and the reasons cited by it would most likely be referred to by some in the Alaska legal profession when asked by management and the boards of directors to bring forth rationale on why corporate democracy is not applicable to ANCSA corporations.

Corporate governance, whether public or private, is full of complexities involving relations, processes, institutions, laws, and policies. Intertwined throughout these complexities are issues involving markets, governments, shareholders, and competition. Alaska Native corporations, whether village or regional, are a unique creation of the federal government; assuming advantageous aspects of the public corporation and the private corporation and often following or attempting to follow the federal policies and court rulings based on precedents established since the establishment of the United States. Not only are Alaska Native corporations different in how the U.S. Congress came to deal with a centuries old problem, Congressional boldness in this modern age was done in sharp contrast to the federal government policies that began in the late 1880s.

A major trend . . . was a tendency to further minimize the functions of tribal leaders and tribal institutions and to continually strengthen the position of the Government representative and his subordinates, and to improve effectiveness of their programs to break down traditional patterns within the Indian communities. (Tyler, 1973, p. 91)

Many would like to say that the settlement of the aboriginal claims in Alaska was based on efforts for justice, equality, and fairness. No doubt, there is some truth to such

an assertion. But, recent history has made it clear that without the 1960s civil rights movement in the Lower 48 and the discovery of oil on the North Slope, the likelihood of 44 million acres of land and a billion dollar settlement was remote. The issue of Alaska Native claims was perfectly timed as it came during the Civil Rights leadership of Martin Luther King, Jr. and the need of the U.S. population for gas to fuel their cars which the market-driven oil industry wanted to supply.

Unique and Distinct From All Others

Alaska Native corporations are unique and distinct from all others and they likely will always be. As a legal settlement, the rights attached to the original shares vested in those shares and who benefits from those shares attaches to whoever is the current owner, Alaska Native or non-Alaska Native, U.S. citizen or non-citizen. ANCSA shares are essentially pieces of property. Even if the shares are allowed to become freely transferrable and can be bought and sold for whatever price, likely what will be attached to those original shares will be the right to share in the profits of the development of the subsurface estate in an area the size of the state of Missouri. And, as Native American entities, Congress may create rights uniquely applicable to the corporations because of the Indian Commerce Clause of the U.S. Constitution. Congress may choose to deal with Native American tribes almost any way they so choose “to regulate commerce . . . with the Indian tribes.” (U.S. Constitution, Article 1, Section 8, Clause 3)

Just as the ANCSA corporation is a unique creature of American law, the very existence of the American corporation in global commerce is also distinctive. According to *Comparative Corporate Governance, A Chinese Perspective*,

.... there are two important elements that have contributed to the separation of ownership and control in U.S. corporations, and the managerial capitalism in the United States of America (USA). First, the increasing complexity of technology operated in modern enterprises enables professional managers to take more power away from the owners. Secondly, the dispersed corporate ownership caused by U.S. bank restrictions has resulted in shareholders lacking the information, skills and incentives to monitor management. Thus, control of large companies has shifted from owners to professional management. (Wei, 2003)

It is from this perspective that best illustrates why ANCSA corporations have moved towards mirroring the American corporation and veered away from Alaska Natives' traditional ways of governance which, at least from one perspective, was communal in ownership of land and natural resources (wood, fish, animals, plants).

As for the definition of corporate governance, one definition states:

.... the purpose of corporate governance is to persuade, induce, compel and otherwise motivate corporate managers to keep the promises they made to investors. Another way to say this is that corporate governance is directed at deviance within corporations where deviance is defined as any actions by management or directors that are at odds with the legitimate, investment-backed *governance (corporate deviance) is defined as promise-breaking behavior* (our italics). (Macey, 2008, p. 1)

Think Outside of the Box to Empower

The untapped ideas and creative powers of the vast array of present and potential shareholders can best be stimulated by furnishing them . . . more information and corporate facts . . . for facts are the lifeblood of ideas, and ideas are the salvation of freedom and democracy. (Gilbert, 1956, p. vi)

Shareholder Democracy by Frank D. Emerson and
Franklin C. Latcham.

Thinking outside of the corporate box to apply corporate democracy theory to ANCSA corporations would help dispel the powerful myths of the lingering influences of colonial thinking in the social, economic, and political cultures among rural-focused entities. There appears to be a firmly entrenched idea that rural/Alaska Native people do not know what is best for them; and that it is better to bring ideas having worked elsewhere in environmental and well-populated areas that are totally different from the uniqueness of rural/Alaska Native areas of Alaska. In essence, importing administrators and managers whose techniques, skills, and ideas are foreign to Alaska Natives may have caused tremendous and expensive damage to the general well-being of Alaska Natives, particularly in rural Alaska.

The first question to ask in answering whether corporate democracy can be applied to ANCSA corporations is whether the U.S. Congress can implement policies to regulate the ANCSA corporations. The answer is obviously yes, but the further question is whether Congress will develop and pass such policy legislation. Further down in this section is a discussion on the 1980 effort to pass the Corporate Democracy Act which has

some similarities that may apply to a federal effort to either include Alaska Native corporations under the jurisdiction of the Security Exchange Act (which the 1971 act specifically exempted) or to grant another entity to have the specific responsibility to oversee ethical and legal obligations of ANCSA corporations. (Regional Alaska Native Corporations, 2012)

A good example might be the federal authority similar to the National Indian Gaming Commission.

The Indian Gaming Commission's stated mission is to "shield Indian tribes from organized crime and other corrupting influences; to ensure that Indian tribes are the primary beneficiaries of gaming revenues; and to assure that gaming is conducted fairly and honestly by both operators and players." (Indian Gaming Commission)

The first step in the application of corporate democracy to ANCSA Corporations is to re-energize and motivate the movement that was suppressed during the mid-1970s rush to imitate the election and proxy practices of publically traded companies. Freedom to speak includes the freedom to disagree and should not be limited to the annual meetings required by State regulations. Legal challenges to proxy solicitations and mailings to shareholders should succumb to the highest right of communications among equals and not to the technical or legal jargon and interpretations by staffs of high-priced firms who are only motivated by the hourly rate.

Advocating for shareholders' rights in a corporate democracy is a lonely battle and subjects the person or group to the effective practices of current management and incumbent board of directors who are not eager to embrace shareholder participation,

especially when it is critical. This is done under the guise that the Alaska Native corporation is being operated the way it is done in normal corporations. This is precisely the reason that the adoption of the western corporate model to the letter of the law, rather than adapting the ANCSA corporations to the traditions and cultures of the Alaska Native peoples, fails the expectations of the shareholders.

To create change in the way Alaska Native corporations are governed will take stamina, endurance, foresight, and dogged focus on the prize. A democracy proponent will face incredible odds and hurdles from highly regarded and high priced corporate law firms employed by the current board of directors; from regulatory authorities that are held captive by political influences of the State administration; and from the State Legislature. To a non-Alaska Native legislator or government bureaucrat, the fear of being labeled as anti-Alaska Native because they support efforts to further corporate democracy has a destabilizing effect on their efforts even though they may agree.

A Lonely Cause, ANCSA Corporate Change

What the ANCSA shareholders will need to implement corporate democracy is a gadfly like Gilbert Lewis.

Lewis D. Gilbert, an advocate of shareholder rights and one of the first gadflies to speak at annual meetings on behalf of small stockholders, died yesterday at Lenox Hill Hospital. He was 86 and lived in Manhattan. So read *The New York Times* on December 08, 1993.

By persistently questioning chief executive officers – some of them considered it badgering – he succeeded in getting more companies to hold

annual meetings in accessible locations, to issue post-meeting reports, to limit stock options for executives and to require their auditors to attend the meetings. A lot of the ideas that the Gilberts pushed for many years to make boards accountable to shareholders have become real,” said James E. Heard, the president of International Shareholder Services, which advises large institutions on voting at annual meetings. ‘They were a lonely voice out there for a long time and a lot of what they were saying has relevance today.’ (The New York Times, 1993)

The irony of all this is that what Lewis Gilbert fought for is relevant today – a full six decades later – to the privately-held ANCSA Corporations. The Gilberts (includes brother John, Jr.) were owners of small blocks of shares similar to what an average ANCSA corporate shareholders owns.

In 1933, he went to his first annual meeting at the Consolidated Gas Company, which later became part of Consolidated Edison. ‘I expected to be welcomed cordially and to be treated like one of the owners,’ he later said. ‘I got up to ask a question, but before I had a chance to say anything, one of the officers sitting in the back of the room made a motion to adjourn.’ Despite being cold shouldered by many managements and hissed by some other shareholders, he continued to appear regularly at annual meetings to voice his views. (The New York Times, 1993)

Lewis Gilbert’s voice from 1933 to his last annual shareholders’ meeting in 1992 grew louder over the six decades. Corporate changes were made only after frustrations

with the corruption and failures of large corporations. Only then did the shareholders put political pressure on the U.S. Congress which in turn put pressure on the Securities and Exchange Commission (SEC) and state regulatory authorities.

In the 1970s, in the infancy stage of the regional corporations, the big bold experiment of President Nixon's administration was being watered down by the interpreters of corporate management, governance, and legal rights and responsibilities of for-profit corporations. In a relatively short period of time, the bold, innovative spirit of the Settlement Act was reinterpreted in the spirit of the lawyers and the managers who knew little of the cultures and traditions of the Alaska Native peoples but knew their own corporate culture so well they superimposed it over the Settlement Act. The reinterpretation of the Alaska Native intent and Alaska Native expectations of the land claims effort was met with increasing hostility by the newly-created shareholders who were accustomed to speaking up and asking questions at village council meetings or other community events. The boards, using the skillful tactics that Lewis Gilbert fought against, adopted rules to suppress shareholders participation as the boards evolved into self-perpetuating organizations.

The corporations successfully used the tactics and methods that did wear down the 'Lewis Gilberts' among the ANCSA shareholders who became fewer in number as they aged and died. As the years went by, the dissidents aged but the lawyers and corporate leaders stayed on top of the latest methods that included everything from threats of litigation to successfully lobbying the state legislature to adopt new proxy rules and regulations that were used to silence any dissent.

By the mid-1980s the Alaska Native corporate culture had changed. Most of the annual shareholders' meetings were efficiently and routinely managed and voices of dissent were calmed. Chugach Natives, Inc. (now Chugach Alaska Corporation) began to use the state's new proxy rules and regulations to strictly define the limits of debate.

Evidence of the Changing Characteristics of ANCSA Corporations

What is evident in at least one of the corporations, Chugach Alaska Corporation (CAC), the second smallest regional corporation with almost 2,000 original shareholders, is the aging shareholder base. As of December 2012, the original shareholders are 41 years older than they were in December 1971, which puts most of them into their 70s. As the original shareholders die off, their shares are left to younger people (some non-Alaska Native) who are, presumably, unfamiliar with shareholders' participation rights or who are lacking in the confidence of original shareholders or who are easily intimidated by management. This lack of participation at CAC's annual meetings results in deafening silence. The silence is broken only by self-laudatory comments and the Chair's cry of 'Ready for another drawing?' Another reason for the lack of participation is the growing number of Alaska Native shareholders who are not allowed to vote because they were born after December 18, 1971. They are not allowed to vote because ANCSA is a 'settlement' (legal term) between the U.S. Government and a restricted group of Alaska Natives, those born on or before December 18, 1971. Since the 'afterborns' can't vote why should they participate? This creates the likely assumption that the number of active participants in CAC is growing smaller and thus increases management's and the board's control over the assets of the shareholders.

The lesson of Lewis Gilbert is the need for motivation and persistence to continue to democratize the ANCSA corporations regardless of how long it takes. Lewis Gilbert was ridiculed, threatened, insulted, and litigated against from the depression years to the booming 1990s but when his obituary appeared in *The New York Times* he was called “one of the first gadflies.” (The New York Times, 1993) His lonely voice upset the status quo and institutionalized changes that led to the codification of shareholders’ rights and protections, despite the confrontations with such directors as General Douglas MacArthur, banker and former United Kingdom ambassador Winthrop W. Aldrich and steel magnate Charles M. Schwab. (Gilbert, 1956, p. 42)

It is sometimes forgotten that shareholders in ANCSA corporations have few rights or their use of their rights have been curtailed. Perhaps, yes. There are seven basic shareholders' rights of publically-traded corporations and six for ANCSA regional corporations. One of the rights, transfer of stock (#3) is less applicable to ANCSA corporations but could change in time. The seven basic rights are (1) voting rights that affect the corporation as a whole; (2) rights related to the assets of the corporation; (3) rights related to the transfer of stock; (4) rights to receive dividends as declared by the board of directors; (5) rights to inspect the records and financial books of the corporation; (6) rights to bring suit against the corporation for wrongful acts by the directors and officers of the corporation; and, (7) rights to share in the proceeds recovered when the corporation liquidates its assets. (USLegal.com, USLegal, Inc., <http://uslegal.com/>, 2010) Regarding the transfer of stock (shares), in ANCSA corporations the transfer of shares is

restricted to family members' *inter vivos* (one living person to another living person) and after death to anyone or anything in the world if so specified in a legal will.

Causing Change, Shareholders or Managers or Boards

Once a champion, such as a Lewis Gilbert clone, can be found, then proponents of corporate democracy have to make sure what naysayers say about corporate democracy in publically-held corporations does not necessarily apply to the privately-held ANCSA Regional Corporations. For example, a pro/con commentary written by Mark Green (1980), author of *The Case for Corporate Democracy*, on the Corporate Democracy Act said a 1980 article in *Regulation Magazine*, that the “key issue of corporate governance reform is who should make or shape these decisions – a handful of executives, or executives and a representative board that is open and responsive to the views of a company’s many shareholders.” (Green, 1980)

Mark Green goes on to argue that the fundamental issue of unaccountable corporate power warrants federal legislation for several interrelated reasons: “state chartering has failed; corporate illegality is extensive; and our largest corporations are private governments.” (Green, 1980) Green’s 1980 argument for corporate democracy among the top publically traded companies in the United States raises valid analogous positions that unaccountable ANCSA corporate power in 2013 warrants new thought on how to regulate ANCSA entities. The new regulatory apparatus would ensure that corruption and unethical behavior will not be swept under the rug by the public relations campaigns of a self-perpetuating board of directors. The growing power and political influence of the for-profit Alaska Native Corporations was demonstrated in the 2010 U.S.

Senate election when Native/rural entities backed the successful write-in campaign of Senator Lisa Murkowski. Financial contributions of well over \$1.5 million and the tentacles of the Native/rural focused organizations were made possible by the U.S. Supreme Court case in January 2010. (*Citizens United v. Federal Election Commission*, 558 U.S. 310.)

The obstacles to a contemporary Alaska Native Lewis D. Gilbert are huge; not only do the corporations have the financial and legal resources to overcome dissident efforts, the political trading chips are expensive. Efforts to change the system could be met with a muttering bureaucracy not eager to challenge a powerful incumbent.

Too Big to Change

ANCSA was an experiment and likely will always be in some sort of experimental stage. There are three reasons for this: first, few Alaska Natives fully comprehended the consequence of the ownership of 100 shares and what it meant for the after-borns (Bigjim & Ito-Adler, 1974, Chapter 1 pp. 15-16), second, the land base represents the culture and heritage of the Alaska Natives and to lose the land is to lose the culture as the Alaska Federation of Natives' poster said, "Take my land, Take my life." (Alaska Federation of Natives, 1988 Annual Convention Poster.); thirdly, the growth of the Alaska Native population from an estimated 65,000 in 1971 to approximately 140,000 in the 2010 census (this figure includes those who preferred to be counted as multi-racial). (U.S. 2010 Census Projections.)

Complicating the situation is that an increasing number of non-Alaska Natives are inheriting shares of stock in Alaska Native corporations even in villages that have grown

from under 100 residents to several hundred, leaving most of the current residents as non-shareholders who have become the owners of the corporate stock in the corporation that owns the subsistence lands around the villages. (Chugach Alaska Corporation Shareholders Roll.) As one consequence, the intense political, economic and financial battles over natural resources (i.e. Pebble Mine, Donlin Creek Mine, Greens Creek Mine, and 72 other mining prospects [Alex DeMarban, 2012]) are leaving resident villagers on the sidelines while village and regional corporations side with the non-Alaska Native joint venture partners over natural resource extraction in subsistence areas.

The Settlement Act was hailed as a big, bold experiment that rejected the creation of ‘pockets of poverty’ that had become the defining, descriptive phrase for Indian reservations in the Lower 48. The uniqueness of the settlement was unlike anything that any aboriginal group had achieved anywhere in the world. What the U.S. Congress created was done only after a series of compromises among the many aboriginal groups in Alaska that aligned the interests of the business sector with State government policies and forged complex relationships. These relationships forced village corporations to work with the regional corporations and the regional corporations to work with each other. However, the Settlement Act was often referred to, especially during the decade of the 1970s, as the ‘lawyers full employment act.’ High priced law firms fought each other in expensive and complicated lawsuits with at-large shareholders and village corporations over ownership of surface, subsurface and revenue sharing requirements. The ensuing litigation battles depleted financial reserves of the Alaska Native corporations that many thought would be used to create employment and economic opportunities for the

shareholders. All of the regional corporations established themselves under state charters as for-profit entities. The regional corporations then incorporated non-profits for social services such as housing, health care, and environmental causes.

Who Will Lead?

The complexities of the legal battles were arcane and meetings between the litigants were often handled entirely by the hired attorneys simply because the legal terminology and subtle technical points of law escaped board members. Most of the board members lacked the legal and technical knowledge to fully grasp all the legal points and the precedent setting decisions of the lawyers.

There were a few novel ideas under the Settlement Act such as the mergers with regional and village corporations. Only two, Ahtna (the smallest regional corporation) and NANA in the Northwest Arctic, merged with its village corporations. NANA's largest village corporation, Kotzebue, voted against merger. There have been several Congressional actions since the passage of the 1971 Settlement Act such as the 1991 amendments that allowed the regional corporations to create other classes of shareholders including those born after December 18, 1971 (but not eligible for subsurface profit-sharing) and elderly dividend provisions.

It should be noted that when the Alaska Federation of Natives (AFN) can bring all 35 entities with voting representation on the AFN Board of Directors to a consensus, a powerful coalition of lobbying and voting strength is brought to bear on Alaska's Congressional delegation. Two good examples of special benefits created outside the boundaries of the Settlement Act are the NOLS (net operating losses) which generated

\$445 million for the 12 regional corporations. (Institute of Social and Economic Research, December 1991, Vol. XXVIII, No. 2, p. 1) Both efforts were led by the late Senator Ted Stevens which generated billions of dollars in revenues for Alaska Native Corporations.

While the management style of Alaska Native Corporations appears to be western, many of the managers have made substantial efforts to identify with the original cultures and traditions. They appear eager to display and educate non-Alaska Natives on the uniqueness of the Alaska Native tribes. This builds greater appreciation for the ethnic diversity of Alaska and strengthens the character and virtues of the State's population.

Addressing the issue of whether the corporations are too big to change is not much of a hurdle as long as those who have life estate stock (for those born after December 18, 1971), that number is likely to outnumber the original shareholders, at least in some corporations, and could vote out perennial directors when it comes to changing the face and hearts of management.

It would be best to keep in the mind one of the opening paragraphs of the well-used, often quoted book, *A Theory of the Firm, Governance, Residual Claims, and Organizational Forms*:

The objectives of corporate managers often conflict with those of the shareholders who own the company. Laws and regulations enacted since the 1930s have effectively put most of the power in the hands of the management, frequently at the expense of the interests of the owners of the corporation. At the same time, boards of directors have tended to go

along with management and to ignore the interests of the very party they were created to protect. (Jensen, 2000, p. 9.)

The challenge for shareholders, if they wish to broaden their influence over the corporations, is to resolve to follow more clearly the intent and expectations of the Alaska Natives in the early 1970s. This means the shareholders will go against the best legal advice money can buy.

Chapter 4

Prelude

Robert is in a state of reflection on this cold, windy New Year's Eve, 2075. The wind always blows on the Yukon-Kuskokwim Delta. He looks at his surroundings, thinking of the whole dark catalog of persistent social ills that plague Alaska Natives. He wonders if things will ever change. The changing but never changing demographics offer little hope that the general condition of the Alaska Native will change for the better. It is as if the human condition has been frozen in time - at least for the past 100 years. Cancer is still the leading cause of death of Alaska Natives as it was in 2007 when it was 30% greater than for U.S. Caucasians. As in 2007, the suicide rate was 3.6 times greater than Caucasians; 41% of Alaska Natives were likely to be smokers vs. 20% for non-Natives; diabetes was still higher than the national average, as was alcoholism, sexually transmitted infections, and tooth decay. What was most alarming, disappointing, and depressing was in education and the poverty rate. The dropout rate among Alaska Native students is nearly twice that of Caucasian students in the state and 9.4% of Alaska Natives received an associate's degree or higher compared to 37% of U.S. Caucasians. The number of children living below the U.S. poverty rate was twice the national average. (Alaska Native Epidemiology Center, 2009)

Despite the gory statistics, Robert's hope springs eternal even as his patience wears thin.

Robert wonders, with so much land awarded the Alaska Natives by the Settlement Act, an area the size of Missouri, and so much wealth in the subsurface — why the Alaska

Native people are still at the bottom of the heap. What were they thinking in 1971 when those who fought for a fair, just, and equitable land settlement said that only original shares conveyed with it the right to share in the riches of the mineral estate?

In 1950 the earth's population was 2.5 billion. By the time of the Settlement Act in 1971 it was almost 3.8 billion and in 2075, as Robert looks out the window, it is almost 10 billion and still growing. (GeoHive, <http://www.geohive.com/earth/population3.aspx>) The earth's population is as hungry now as it was when, in the first decade of the 2000s, a hundred million Chinese were elevated into the middle class. Though China now has 1.4 billion people, it was surpassed by India in 2030. India, at 1.8 billion is now the world most populous country. (GeoHive)

A couple of days after Christmas, Robert started browsing the website of the online magazine World Economics, a monthly trade magazine headquartered in Hong Kong. He is surprised to read of India's new prime minister's commitment to elevate 250 million Indians within 20 years. It will be difficult because of the centuries old cast system. That means the country will need iron, gold, diamonds, timber, fish, uranium, and numerous other metals. It is a lofty goal but the prime minister and the Indian parliament are determined. The short and long term strategy is to build economic, trade, and financial relations with the countries of the northern hemisphere - namely Canada, Russia (Siberia), the Greenland, and Iceland. Alaska is included because of its sparse population and large land holdings owned by the private Alaska Native corporations.

The hunger for minerals alarms Robert. He, like many of the descendents of the original shareholders of the village corporation, thought that the surface was protected

when the board of directors authorized the sale to the lodge owner in 2020. In 2053 the lodge owner's grandson granted access to the mine developers. The village residents are permitted to hunt and berry pick on the former village corporate lands as long as they are a minimum of a half mile from any of the trucks, equipment, or mine workers. On all of the 40,000 acres sold there is not a single place less than a half mile from the mine's operations.

The rumor in the village is that the lodge owner's grandson's grant of access to the mine developers is worth \$10 million a year. The regional corporation has a 4.5% royalty (pure profit, the same percentage as the first mine - Red Dog) on the mineral estate of which 70% under 7(i) of the Settlement Act requires must be distributed to all the village corporations based on the number of shareholders enrolled to it. At-large shareholders receive a direct distribution from the regional corporation. That means over 95% of the 600 village residents receive nothing from the mine since almost all of the owners of the ANCSA original shares live elsewhere.

Tom Smith IV of St. Louis, MO, has begun studying the annual reports where the 50 mines on Alaska Native corporate lands are located. His original shares have returned \$75,000 a year under the 7(i) provision of ANCSA. He is thankful his maternal great-grandmother was born one quarter Yupik Eskimo.

The Strength of Culture, The Allure of Dividends

The ANCSA of 1971 awarded Alaska's Eskimos, Indians, and Aleuts 44 million acres of land and a billion dollars. The 68,750 square miles is scattered throughout the state in parcels that range from 69,120 acres for 25 to 99 people to 161,280 acres for over

600 people. Perhaps the acreage can be better compared in relation to the size of states. The state of Georgia is 59,425 square miles, Illinois 57,914, Iowa 56,271, and New York 54,556. There are over 200 village corporations and 12 regional corporations with another created for those living in the Lower 48. The 13th regional corporation received no land under ANCSA. (Alaska Native Claims Settlement Act, Sec. 12.) (The delegations from the Lower 48 and the Arctic Slope Native Association (ASNA) voted against accepting the settlement offer, primarily because ASNA was to receive a fraction of what they would be entitled to and the Lower 48 Alaska Native corporation would receive no land entitlement.)

The award of land to Alaska Native corporations (as owners in fee simple) was a new and unfamiliar concept to most Alaska Natives. As a tangible asset in westernized corporations, land is an asset that can be sold, bought, or used as collateral for business operations; thus land owned by corporations with aboriginal peoples as shareholders was untried and certainly unfamiliar. The ANCSA corporations became a forced marriage between free market concepts and social agendas. It now generates angst.

Under ANCSA, [Alaska] Native peoples were promised title to over 40 million acres of our former lands and \$962.5 million to establish [Alaska] Native regional and village corporations charged with promoting social and economic well-being of Alaska Natives. ANCSA is criticized both in terms of product and process, i.e., it yielded too little and the process did not meet a reasonable bar for inclusion. Most condemning for some is that as Alaska Native corporations, created in the image of a Western corporate

model, have prospered, many Alaska Natives see ANCSA as a vehicle for assimilation. In this view the quest for profits has trumped the quest for culture. For others the criticism is that we now have a new class of [Alaska] Native corporations who share a common culture of the pursuit of wealth. (Ongtooguk, 2012)

Before there were conflicts over land or money there were questions. In October 1969 from a question by Rep. John Saylor (R-PA) “whether he favored more emphasize on land or money, Notti, president of the Alaska Federation of Natives, said they were both important. ‘The money is needed now and the land is for the future.’” (The Tundra Times, 1969)

Notti's testimony was at a Fairbanks, Alaska, hearing of the U.S. House Committee on Interior and Insular Affairs as they toured the state.

At the hearing Tyonek, a former Indian reserve on the eastern side of Cook Inlet, experiences were used as an example of the positive results that can happen when Alaska Natives manage their own business affairs on their lands. Agnes Brown and Fred Bismark of Tyonek said that “when oil reserves were discovered on the Tyonek Reservation, the Interior Department authorized competitive leasing. The Bureau of Indian Affairs wanted the Tyonek Indians to approve all lease bids. The Tyoneks held out until they were given the right to manage their own affairs.” (The Tundra Times, 1969)

Perhaps the Tyonek experience of the marriage of for-profit entities to social conditions of housing, education, and employment was the seed that sparked the

corporate concept. “Universally acclaimed as a great success story, the Tyonek Indians not only vastly improved their living conditions but also compete in a number of business ventures.” (The Tundra Times, 1969)

In his online newspaper opinion piece, Ongtooguk, a University of Alaska Anchorage education professor, asked questions that many Alaska Native leaders are unable to answer.

It is deeply troublesome, for example, that despite the hard-fought battle for land ownership, over 700,000 acres of original ANCSA land have been sold by Alaska Native corporations. A decision to sell cultural lands by the present generation of shareholders deprives all future generations of this sacred legacy. Have decisions to sell land been made strategically with the well-being of future generations in mind, or have these decisions been made to enrich the current generation of shareholders? Have the long-term social and cultural costs of land sales been considered as equally or more important than the economic benefits? (Ongtooguk, 2012)

All of the regional corporations are independent of each other but connected by a single umbilical-like cord called 7(i) profit-sharing. All of the companies publicly revere to some extent the cultures and traditions in their geographical areas. The profit-sharing cord will likely be severed only when the shareholders en masse determine that they can do without the culture and traditions, the 1960s-era indigenous people’s cause for a fair, just and equitable settlement tied to land notwithstanding. When that happens it will

probably be because subsurface resource development profits are significant and loom larger than cultures and traditions.

During the Alaska Native Commission hearings on the land claims in the 1980s, ample testimony was submitted to the private, independent, mostly privately-funded commission. Almost all of the testimony was based on the Native's connection to the land.

To one culture, the land is inalienable. Alaska Natives believe that land is held in common by the tribe, a political community that is perpetual. Every member of the community in succeeding generations acquires an interest in the land as a birthright. But to western society, land is a commodity to be bought and sold. The Alaska Native peoples clearly understand that land is at the heart of this prolonged conflict. The protection of their lands has always been their primary concern. (Berger, 1985, p. 73)

There are some who question the relation of Native Americans to the land. Recent sales of ANCSA-conveyed land raise the issue and the question between monetary land and claims to heritage and the importance thereof. There is at least one writer who claims that the Native's attachment to land is a myth and is used for ulterior purposes.

Environmentalists who have cultivated the myth of the environmental Indian who left his surroundings in exquisitely pristine condition out of a deeply spiritual devotion to the natural world have done so not out of any particular interest in the American Indians, the variations between them, or

their real record of interaction with the environment. Instead, the intent is to showcase the environmentalist Indian for propaganda purposes and to use him as a foil against industrial society. (Woods, 2007)

Native Americans as conservationists have not always been the image. There was considerable fear from the budding environmental movement in the 1960s about Alaska Natives owning land in fee simple. “The only threat to a favorable land settlement of the land claims is yet dormant. It was pointed out by several of the Congressmen, including Chairman Aspinall that active opposition to a land grant may come from powerful conservationist lobbyists.” (The Tundra Times, 1969)

There is so much land and - potentially and possibly - great wealth in the subsurface that it is not difficult to imagine what kinds of pressures will be exerted on the ANCSA Corporations. But one thing is clear - absolutely clear - the people living in the rural areas will want to continue to have say and sway over how they will be able to maintain their lifestyles which are such an important part of local traditions and cultures. As was often said, before and after an Alaska Federation of Natives (AFN) 1988 Annual Convention Poster proclaimed, “Take My Land, Take My Life.”

Within one year after the signing of the ANCSA the corporations were up and running. It was a long way from 1962 when the Task Force on Alaska Native Affairs issued its recommendations in its Report to the Secretary of the Interior. The report noted that,

Both [Alaska] natives and non-[Alaska] natives of Alaska often emphasize their great desire to have a completely integrated society. Yet, wishful

thinking alone is not likely to accomplish this goal in the near future.

Both in terms of culture and social status, the bulk of the [Alaska] native population is separated by a sizeable gulf from the non-native. It is improbable that integration will be achieved through pretending that there are no differences between the two groups at present, and that special attention to the problem is unnecessary. While distinctive programs of education, employment assistance, health and sanitation, and real property management – whether offered by the State or the Federal Government – may appear to endow [Alaska] natives with a privileged status, the continuation of such programs into the foreseeable future is unquestionably necessary for their well-being and that of Alaska. (Alaska Task Force, 1962, p. 57)

The Task Force on [Alaska] Native Affairs

.... found the Indians, Eskimos, and Aleuts generally opposed to having ‘reservations’ (in the sense that term is employed in the Lower 48 states) established for their use and occupancy. Many felt that Indians residing on reservations did not have the same citizenship privileges and the same freedom of movement as other Americans. For example, they have emphasized that the creation of reservations would be one way of defining land rights and of assuring continued access to the fish and game upon which the [Alaska] natives depend. (Alaska Task Force, 1962, p. 58)

The findings and recommendations of the report were made after traveling over 5,000 miles, visiting 32 villages, and taking testimony from more than 100 village representatives. The concerns expressed by the village representatives are consistent with those expressed by Alaska Natives in the following four decades. For example, the Task Force noted an education problem, [Alaska] Native children “lag behind in education attainment” (Alaska Task Force, 1962, p. 11) a land problem, “the need to lease and otherwise develop for the benefit of the [Alaska] natives some of those lands already reserved for them and to extend this authority to future withdrawals” (Alaska Task Force, 1962, p. 69); and subsistence, among the recommendations “making sure that Alaskan natives are represented on the Alaska State Board of Fish and Game.” (Alaska Task Force, 1962, p. 37)

The number of references on the Alaska Natives’ desire to control and influence conditions of their livelihoods is numerous in State and federal reports and periodicals. There have been thousands of Alaska Natives who have offered testimony at public hearings since 1962 and there are likely thousands more to come. Judging by historical precedent, they will almost all raise the same concerns - land for hunting, fishing, and gathering purposes and the opportunity to economically and financially benefit from traditional lands (The Tundra Times archives).

In a Bureau of Indian Affairs (BIA) report requested by the Alaska Federation of Natives, Inc., six years after passage of ANCSA, brief profiles of the regional for-profit and non-profit corporations showed the for-profits involved in numerous businesses such as accounting services, seafood processing, hotel operations, freight hauling, oil and gas

exploration, construction, gravel, banking, pipeline maintenance and the list goes on.

The expectations of the shareholders were high, many of them unaware of success rates of entrepreneurial businesses.

The transition of a widely diverse indigenous population in an area one-fifth the size of the continental United States was sudden given the conditions in 1962 of a poor, undereducated, underemployed class of subsistence hunters and fishers. By 1966 the Alaska Natives had come together in what was assumed to be nothing more than a transitory loose federation of people who did not trust each other. Many observers of the Alaska Native condition did not expect the Alaska Federation of Natives to hold together because the cultures and traditions were alien to each other. Some of the regions had weak ties to land and culture.

“Take My Land, Take My Life” (AFN 1988 Annual Convention Poster) seems hollow, empty, just words on a piece of paper. Since 1991, village corporations in the Koniag and Chugach regions have sold much of their land back to the United States. Following the 1989 Exxon Valdez oil spill and the creation of a fund from the fines imposed on the transnational corporation, the billion dollar trust was used as a bank account to buy the rights to the surface estate to protect it from any potential development.

In 1993 it was reported in *The New York Times* that the oil-spill trustees had reached a deal with the Alaska Natives and environmentalists.

Six Federal and state officials who are overseeing the civil settlement of the Exxon Valdez oil spill voted Thursday to spend \$38.7 million to buy

and preserve 42,000 acres of coastal land in Alaska. The decision to buy the native-owned land on Afognak Island, which would otherwise be used for logging, was hailed by environmentalists. (The New York Times, 1993)

For example, four of the five village corporations in the Chugach Native region, Prince William Sound and eastern Kenai Peninsula, sold almost as much land as Sealaska Corporation received in the 1971 settlement. The shareholders were under an intense and focused lobbying coalition effort of fishers and environmentalists who were opposed to any development that would potentially harm the fishery. The shareholders, many of them non-residents of the region, voted to sell. The shareholders received substantial redistribution checks from the millions of dollars received for the conservation easements.

Chugach Alaska Corporation (CAC), the regional corporation the four village corporations are affiliated with, still owns the subsurface estate, because, after all, the shareholder cannot sell – legally – something the shareholder does not own. (Exxon Valdez Oil Spill Trustee Council, 1998 Status Report, p. 20) The approximately 300,000 acres of subsurface rights are subject to 7(i) of ANCSA and thus 70% of any profits from the development of the natural resources are shareable with the approximately 6.5 million original shares.

The question raised by the sale of land and conservation rights to the surface estate brings up an interesting question. Though it is assumed that the subsurface owners are guaranteed access to what they own, how will they ever gain permission from the

National Forest and the National Park Service to do so? The opposition from the well-oiled national environmental lobby is powerful, determined and focused to achieve what they believe they lost in 1971. (Phillips, 1999)

The CAC situation highlights the complexities. Most of the corporation's shareholders are non-residents of Alaska and the region. Therefore since village shareholders are regional corporation shareholders, it is highly probable that most of the village corporation shareholders no longer live in the village. There is a growing Alaska Native population in Prince William Sound and on the Kenai Peninsula.

ANCSA imposed free market concepts by the use of the corporate system of business. It is an imposition on an indigenous people who knew little of government except that created by the Indian Reorganization Act (IRA), which did not necessarily reflect the kind of traditional governments exercised by the 200 villages in Alaska.

Years later, in explaining how it came to be, former U.S. Attorney General Ramsey Clark recalled in *Breaking the Ice, From Land Claims to Tribal Sovereignty in the Arctic*,

We were – not so much me but the other lawyers working on it – were, business corporate lawyers. That was their history, that was their knowledge, that was their joy. And their familiarity with Alaska Native ways and needs was somewhat limited.' As a result, ANCSA took on a corporate form, and this, perhaps more than anything else, led grassroots movement after ANCSA was implemented to restore tribal sovereignty,

and to reject the corporatization of [Alaska] Native culture. (Zellen, 2008, p. 47)

The pieces of the puzzle are fluid as the world's population grows and the pressure on natural resources accelerates. Some of the Alaska Native corporations that have not opened up their shareholder rolls to allow those born after December 18, 1971 to enroll in a special class with life estate shares, thus granting them the right to participate in the election of directors to the board, will face increasing pressure for dividends. This pressure may appear in the guise of environmental protection and a dangling carrot of large dividends (as in the case with the Chugach village corporations).

Another puzzle piece includes the growing migration of rural people to the more urban centers such as Fairbanks and Anchorage, and the larger sub-regional centers such as Bethel and Dillingham. That migration pattern includes original shareholders and their descendents, many of whom are not necessarily shareholders. In a *Fairbanks Daily News-Miner* story, Aaron Schutt, the President/CEO of Doyon, Limited, said,

In 1971, when ANCSA was passed, about three-quarters of our shareholders lived in villages, about 25 percent in Fairbanks and a small percentage elsewhere. Now only about 25 percent of shareholders live in villages, another 25 percent in Fairbanks and elsewhere, and about half live out-of-state. (Bradner, 2012)

The shareholder migration away from the villages and the growth of the non-shareholder population in the villages will create issues.

In the same news story, Margie Brown, President/CEO of CIRI said,

There's a whole class of shareholders not that familiar with the corporation and their history. In 10 to 20 years, many shareholders will have to decide what it really means to be an Alaska Native shareholder, and in 40 years all of us probably will be at that point. (Bradner, 2012)

While Alaska Natives continue to testify with the same passionate reasons and arguments in 2013 that were used to propel energy into the early 1960s percolating land claims movement, what was said in the *Fairbanks News-Miner* is not going to happen at some future juncture but has happened as in the case of Chugach region villages. And it happened when the land claims battle was still fresh in the minds of most Natives. It happened because environmentalists now had the Exxon Valdez Trustees Council as a bank and willing sellers who seemed more concerned with benefitting themselves than protecting the land that would be owned by the next generation of shareholders.

Alaska Natives who seek instant monetary rewards from the ANCSA corporations or at environmentalists who pressure village residents to sell the land should not be the only ones who will be faulted by future generations. Perhaps the Alaska Natives who voted in favor of land sales did not believe as the many who believed in the promises of ANCSA. After all, the Congress created individual ownership of shares of stock in the corporations so it was not unreasonable for Alaska Natives to expect dividends.

Nothing seems fair and just with the ANCSA. In 1990 the villages were under heavy pressure by shareholders to make money and heavy pressure to preserve the land. Some Alaska Native corporate officials said non-Alaska Natives were applying a double standard. One such official was Ralph Eluska, then president of the village corporation

Aihiok-Kaguyak Inc. He was quoted in *The New York Times* in June 1990 as saying "... we're broke. Congress made us into a corporation, and then said, 'Go out and make the bottom line.' So, our shareholders keep asking me, 'What have you done for me lately?'" (Egan, 1990) That question was being asked all over by Alaska Native by shareholders, unfamiliar with the challenges of entrepreneurial opportunities, particularly in remote rural parts of the state.

In the 1986 book (a collection of essays), *Contemporary Alaskan Native Economies*, two University of Alaska Anchorage (UAA) professors wrote about the prospects for mining.

Development of hard rock mineral resources has been a frequently cited source of economic growth in some circles, but the economic realities seem to tell a different story. Whether the problems are economic or otherwise, it is unlikely that hard rock mineral development will ever be more than a locally significant element in rural development. Twenty to forty years from now there may be two or three major mines in production, but their economic significance will be site specific and of minor overall economic importance. (Langdon, 1986, p. 8)

A year after the Alaska Native economic essays were published, Sealaska Corporation, the southeast Alaska regional corporation, announced it had formed a Natural Resources Department to begin development of its mineral estate of at least 600,000 acres. Byron Mallott, chief executive officer, was quoted as saying in *The Tundra Times* (December 27, 1987) that, "This is a major step in a long-term program for

the development of our mineral resources in a way that benefits our shareholders and the Southeast Alaska region.” Sealaska’s mineral estate consists of the subsurface estate of Sealaska Corp.’s lands, as well as the subsurface estate of the lands of the village and urban corporations of the region.”

Three years after creating the division, a major subsidiary of one of the world’s largest nickel mineral corporations signed an exploration pact with Sealaska. The agreement was with American Copper and Nickel Co. (ACNC), a wholly-owned subsidiary of Inco Ltd, a major multinational company based in Toronto. The surface estate of 10,000 acres of the 14,000 acres of the exploration pact is owned by the village corporation Kootznوو. The president of the village corporation said in a *Tundra Times* (September 3, 1990) story that, “Our agreement with ACNC will create business opportunities for our company. Although the financial impacts may not be immediate, it should provide long-term employment opportunities for our shareholders and additional revenues from our land.”

In the winter of 2012 the state Department of Natural Resources unveiled a new interactive map that showed mining prospects around the state. The 75 mining prospects were listed in the online newspaper *Alaska Dispatch* (DeMarban, 2012). “From the Gold Rush to today’s trio of gold-mining reality series, Alaska has long been known for its hardrock dreams. But just how big is the potential? More massive than you think.”

Alaska’s history is laced with threads of mining exploration from the Russians to the modern oil executives from huge transnational corporations. Red Dog, Kensington, and Pogo are today’s newsmakers. But there are others on the horizon. “The truth is,

where there's a mountain, there's a mine in the making. Our state is chuck full of prospects, more than 75 of them peppering nearly every corner of the state." (DeMarban, 2012)

Many of the prospects are on public land and require permits for exploration which are subject to the scrutiny of anyone interested in the general public. That may not be the case with the prospects on the lands owned by the private, non-publically-traded ANCSA corporations. Some have suggested that 30 years ago when the regional corporations were attempting to curry favor from the state's business community which was hostile to the land claims effort, they employed public relations tools. Such tools included press releases and appearances at chambers of commerce and other avenues to extol the virtues of Alaska Natives working within the free enterprise system. That may not be the case in 2013 as mining development prospects are almost guaranteed to generate adverse public attention.

Several decades ago, large-scale mining in the arctic and sub-arctic was dismissed as too remote, too expensive, and too controversial. That was before the trans-Alaska Pipeline (new in 1974, now rapidly aging) and Red Dog mine, one of the world's largest open pit operations.

The 1970s and 1980s were decades of hostility towards environmentalists, then a shameful, dirty word. President Jimmy Carter was the embodiment of the environmental movement.

In December 1980, a month after he was voted out of office, Mr. Carter signed a bill that had been fought over, in one version or another, since

Alaska became a state in 1959. It has been called the biggest zoning act in history, designating 10 new national parks, monuments and recreation areas and protecting nearly a third of the State of Alaska from development. Mr. Carter ranks it among his biggest achievements. But at the time it looked as if Mr. Carter would never be able to set foot in this state. At the Alaska State Fair, he recalled, he was a bigger villain than the Ayatollah Ruhollah Khomeini, as people lined up to throw bottles at his image. Just months after Mr. Carter left office, he stopped in Anchorage on his way to Tokyo, and the Secret Service urged him not to leave the air base for fear of what angry Alaskans might do to him. (Egan, 2000)

Times have changed in Alaska. When Jimmy Carter visited Alaska in late summer 2000, the crowds that greeted him hailed him “as a hero and visionary for what has been called the greatest conservation act in American history.” (Egan, 2000)

The development of the Red Dog mine in northwest Alaska on NANA Regional Corporation land has become one of the world's largest producers of zinc concentrate. The profits from its development of a portion of the 51.6 tons of reserves which contain 16.7% zinc and 4.4% lead are subject to 7(i) and resulted in \$82 million being distributed to the other regional corporations in 2011. Zinc is priced by metric ton and fluctuated between \$1,980.07 in January 2012 to \$1,855.18 in June. Metals About.com, (2013)

The NANA/Cominco Red Dog agreement states that NANA receives royalties of 4.5% until capital costs are recovered then rising 5% every year to a maximum of 50%.

The 7(i) provision of ANCSA could mean that hundreds of millions of dollars of the mine's profits will be distributed to the other regional corporations. (Alaska Journal of Commerce, 2007)

Using simple arithmetic, dividing the 2011 Red Dog distribution (\$82 million) by 65,000 (approximate number of original shareholders owning 100 shares apiece), each owner of 100 shares is entitled to \$1,261.54. Regional corporations receive an amount based on their number of original shares which is then distributed to village corporations and at-large shareholders. The amount to the village corporation is based on their original enrollment.

Red Dog is on Alaska Native corporation land and the proposed Pebble mine is on state-leased land. Pebble royalties will flow to the state of Alaska treasury.

The Pebble mine prospect is a good example of what might yet come to be. With billions of dollars in subsurface value in gold and copper, the transnational corporation, in 2013, is battling with the environmental organizations, commercial fishers and Alaska Native subsistence fishers. The mine site is on state-leased land and within the boundaries of the sparsely populated Lake and Peninsula Borough (population 1,631). (U.S. Census, 2010) Pebble is being touted as a potential world-class mine that will bring jobs and economic development to one of the poorest regions of Alaska.

What if the proposed Pebble mine was on ANCSA corporation land? Firstly, if Pebble was on Alaska Native corporate land, it would bring with it a lobbying base of thousands of shareholders who would benefit monetarily from the mine's development. Secondly, as an ANCSA corporation, much of the information about Pebble could be

confidential since private corporations do not have to share some financial information during the permitting process. And thirdly, if the Pebble subsurface estate was owned by the regional corporation, as NANA owns the subsurface estate of Red Dog, the financial return over the life of the mine to the owners of original shares would dwarf Red Dog 7(i) revenue sharing.

The Pebble Partnership is a transnational corporation owned by Anglo American and Northern Dynasty. Shareholders of Northern Dynasty include Rio Tinto and Mitsubishi. Just judging the project by the amount that is committed to be spent in the development phase of the project (Anglo-American is committed to spend \$1.4 billion) [Pebble Partnership, 2013], the reserves are huge. (Alaska Journal of Commerce, 2007)

How big would the allure be, if Pebble was on Alaska Native corporation lands? Any financial estimate of the potential worth of Pebble is speculative; some put it higher while others put it lower. Ground Truth Trekking, an environmental leaning non-profit, puts the estimate at around \$500 billion.

Ground Truth Trekking, which was founded in 2007 to
 engage and educate the public on Alaska's natural resource issues,”
 bases its estimate on “maximum recovery rates and spot prices for copper
 (\$3.5/lb), gold (\$1720/oz) and molybdenum (\$11/lb) in November 2012;
 the total market value of Pebble Mine could be in the neighborhood of
 \$500 billion. (Ground Truth Trekking, 2013)

What is interesting about both Red Dog and Pebble is that both were discovered by air. In the mid-1950s, a bush pilot noticed that there were mineral stains and so

landed and named the site after his red dog. In 1986, Pebble was discovered by a pilot who noticed that there were color anomalies in the Pebble Beach area (as it was then known).

There is ample evidence to show that monetary dividends are stronger than cultures and traditions. Villages in the Koniag region (Kodiak Island) and the Chugach region (Prince William Sound and the outer coast of the Kenai Peninsula) did sell hundreds of thousands of acres back to the federal government. The prices paid for the 700,000 acres of surface estate are small compared to what a Pebble-like mine might return to generations of shareholders who own original shares. Again, using simple arithmetic, if the shareholder divides \$500 billion by 4.5% (the royalty NANA gets from Cominco from Red Dog) it equals \$22.5 billion. Then times \$22.5 billion by 70% and that result is \$15.4 billion. Then divide \$15.4 billion by 6.5 million shares and that result is \$2,369.23 per share. In 1971, each Alaska Native was eligible to receive 100 shares.

If the shareholder does the math and he/she may come to the same conclusion, it is all speculative but it is definitely an enticement (please note that all of the numbers could be greatly inflated, the royalty and administrative and capital costs will be deducted from revenues)!

There is tremendous opposition to the Pebble mine and it has reached the editorial pages of the influential *The New York Times*. In June 2012, the paper said that the proposed Canadian-British consortium mine, based on the findings of the federal Environmental Protection Agency, is “deeply worrisome.” The editorial speaks of the “threat of catastrophic failure of huge man-made reservoirs known as ‘tailing ponds’

where mining companies typically store toxic acids, metals and other mining wastes. If that happens, spawning streams would be widely polluted and future salmon harvest sharply diminished.” The *Times* concluded that based on the “mining industry’s poor environmental record, the value of the fishery that could be harmed” the risks were too high. (The New York Times, 2012)

The Pebble mine is on land leased from the State of Alaska. The Donlin Creek mine, one of the world’s largest known undeveloped prospects, is on Calista land because it’s subsurface is subject to 7(i) of ANCSA. The Donlin Creek mine is owned by NovaGold Resources, headquartered in Toronto, Canada, and Barrick Gold Corporation is the world’s largest gold corporation, also headquartered in Toronto. The prospect is in one of the poorest areas of Alaska with some of the worst social statistics in the nation including suicides, alcoholism, domestic violence, and the list goes on. In 2013 there is little opposition to Donlin Creek. Development of Donlin Creek carries many of the same risks and rewards as development at Pebble, and yet Donlin Creek has been moving forward largely unopposed for more than a decade. Both environmentalists and developers agree on the main reason why: money. As Karl Marx long ago observed, everything is economics. Donlin Creek has attracted little attention, said Pam Miller, executive director of Alaska Community Action on Toxins, because “unlike Pebble, there aren’t the wealthy lodge owners. There’s just poor subsistence residents.” (Medred, 2010)

The prospect is estimated to have 26.2 million ounces and at the current gold price of about \$1,100 an ounce, about \$30 billion of which 70% (as in NANA’s Red Dog,

this could be negotiated lower to exclude some capital costs) of the profits could be subject to sharing with the other regional corporations.

Almost all of the other regional corporations have exploratory agreements with transnational corporations and they are searching with increasingly sophisticated metal detectors for copper, gold, iron, uranium, zinc and precious metals. The future is arriving.

In 1867, Secretary of State William H. Seward negotiated the purchase of Alaska from Russia and was roundly condemned by members of the U.S. Congress (whether the Alaska Natives were asked if they wanted to be bought notwithstanding). Thirty-six years after the purchase, a *New York Times* writer reflected on the purchase and quoted a “Mr. Loan of Missouri.” (The New York Times, 1903) He said, “The acquisition of this barren and inhospitable waste would never add one dollar to the wealth of our country, or furnish homes to our people. To suppose that anyone would willingly leave the mild climate and fruitful soil of the United States, with its newspapers and churches, its railroads and commerce, its civilization and refinement, to seek a home among the Aleuts . . . is simply to suppose such a person insane.” (The New York Times, 1903)

Chapter 5

Prelude

Four years have passed since Robert and Tom met at the annual shareholders' meeting in Anchorage at the mega-hotel/shopping mall/parking garage complex owned by a consortium of three regional corporations. Both of them are now 25 years old and both are well-educated professionals. Robert, a UAF graduate, is working for his tribe in the village he grew up in and where most of his family still lives. Robert, a Yupik Eskimo and an owner of one share in his village corporation, considers himself lucky since he has a good job where the unemployment rate in the village is 37%. Tom, a non-Alaska Native owner of 100 ANCSA original shares who considers himself a Alaska Native but is not recognized as such by the tribal council, went to work for his and Robert's Regional ANCSA Native Corporation in the Chicago corporate office under the shareholder-hire program. After a year on the job, the Corporation agreed to pay for Tom's Harvard University MBA education on condition that he return to the Corporation and work for at least two years as a shareholders relations advisor to the Chairman of the Board. Tom is in his second year as a Senior Policy Advisor. Tom is a Yupik Eskimo (for corporate purposes) by descent (his blood quantum is one sixty-fourth Yupik). He was born and raised in Florida and went to school in St. Louis.

Bud Jones, the Corporation's Chairman of the Board, is a graduate of Stanford University law school. Bud is one eighth Yupik Eskimo but he has never lived in Alaska, nor did his mother. His grandmother inherited her shares which she left to Bud. Bud's father and grandfather were also graduates of Stanford Law. Bud's family is considered

'old money' which Webster's dictionary defines as the inherited wealth of established upper-class families.

Chairman Jones is proud of his Alaska Native heritage. He has a carved oosik on his credenza in his office and a historic framed photograph of the 1978 winner of the Iditarod dog team race hanging next to a stuffed moose head.

There is shareholder preference in hiring, especially for executive positions since the law firm emphasizes the use of the Indian Commerce Clause of the U.S. Constitution in preparing preferential bidding documents for defense contracts. The defense department contractors need the mine's ore for manufacturing of weapons. So being an Alaska Native firm with Alaska Natives employed as senior officers is a good thing.

Robert and Tom use the social network often, exchanging emails several times a month. Several times Robert has invited Tom to visit the village where his great-great-grandmother was born. She was adopted and raised in Ohio and never returned to the village. Tom is a corporate Yupik Eskimo, but is more Irish, French, Italian, and English than he is Alaska Native. It is likely that Robert's and Tom's great-great grandparents knew each other and quite likely that Robert and Tom are distant cousins.

Blood quantum has always been factor in Native American policy. The federal Bureau of Indian Affairs Certificate of Indian Blood is important for benefits and tribal membership. It was, however, not as important as ownership of ANCSA shares and for decades, in order to receive medical benefits in Alaska, the only proof a person had to show was that they were a shareholder in a Alaska Native corporation. It is rumored

that the number of non-Alaska Native shareholders who use the Indian Health Services makes up about half of its clients.

Robert's everyday job deals with the issues common to almost all of the 185 rural villages in Alaska – alcoholism, spousal and child abuse, unemployment, and teenage suicides. In 2076 Alaska Natives are still at the bottom in every social indicator of how well society is doing or, to put it another way, Alaska Natives are number one in every worst-case scenario. This is the same story told since well before the 1971 passage of ANCSA. The deplorable condition of the Alaska Natives was a powerful and persuasive argument used in passage of ANCSA and quoted often by oil industry lobbyists and their friendly legislators who wanted to get their pipeline built. And by social activists who wanted to do something right for some of the poorest people in America. In the political settlement every Alaska Native with at least one-quarter blood (one full blood Alaska Native grandparent) who was alive at the time the Congressional bill became law (President Nixon signed the bill on December 18, 1971) was eligible to become a shareholder equal to all other shareholders, no more no less.

With the pending expansion of the mine and in an effort to foster better relations with the tribe - the only government in the village - Tom has emailed Robert to tell him that the Board Chair has told him to visit the community to report on how the Corporation's mining operations can double the number of locals working at the site. There are 1,500 workers who live in dormitories and who work two weeks on, two weeks off. The company flies the employees at company expense to regional airports near

Seattle, Portland, Houston, Chicago, and San Francisco so the workers can spend their two weeks off with their families.

There are four locals employed by the Regional Corporation's mine, three of them non-Alaska Natives but married to Alaska Natives. The one Alaska Native local is armed with a high-powered rifle used to protect the dining hall's waste sites from marauding animals such as bear, fox, wolverines and wolves. Four years ago he shot and killed a wolf which is now stuffed and mounted in the mine's executive offices. The mine's officials introduce the Alaska Native employee as a great hunter.

Robert has offered Tom a place to stay during his visit but Tom said no thanks since he will arrive in the morning and leave at 5 p.m. in order to catch the 9:55 p.m. flight from Anchorage to Chicago. But Tom asked, shareholder-to-shareholder, if Robert could introduce him to some of the village's leadership during his six-and-a-half-hour visit (Tom wants to impress the main office.). The tribe has an Indian Reorganization Act constitution (considered a big part of FDR's Indian New Deal), which was adopted in the 1930s in an effort to give Indians more control over their local affairs on their reservations, then suffering some of the worst consequences of the 1930s Great Depression. The Territory of Alaska was included even though there were very few reservations in Alaska where the land was owned by the United States and held in trust for tribal members by the Secretary of the Interior as is often the case in the Lower 48.

Robert is thinking, here's a non-Alaska Native shareholder who is making his first visit to Alaska to survey local residents' financial and economic wants, needs, and desires on a six-and-a-half hour visit to a village that used to own the surface estate upon

which the mine operates and employs 1,500 non-residents when the unemployment rate in the village is 37%. Also, Tom is a shareholder in the Regional Corporation that owns the subsurface estate which means he has a right to vote and participate in the policies that determine how the mine is operated and on whom the mine impacts. Robert is also a shareholder but under cumulative voting, Tom has 100 times more votes than Robert does (under cumulative voting, each is times the number of seats up for election to get the number of votes; thus, with three seats up for election, Robert has three votes (one share times three) and Tom has 300 votes (100 times three equals 300).

Ever since the airstrip was built during World War II, there has been regular air service from Bethel, the regional hub, to the village. Back then it was twice a month service, now it is four times a day. When the missionaries and territorial officials visited they often spent a few days to rest their dog teams or make repairs on their outboard motors. Spending a few nights forced them to learn of the living conditions in a remote village. Today, government officials, corporate officials and even bishops fly in and fly out, arrive in late morning and leave in late afternoon. There seems to be no need to spend the night, no need to eat local food, no need to visit and get to know local people, no need to get a feel and understanding of the community. Taking all of this into consideration, Robert's thoughts turn dark. His friend Tom is just like them. He's a shareholder in his regional corporation which owns the mine and hires the non-locals. The regional corporation is a Alaska Native corporation but Tom is not a Alaska Native, yet Tom has 100 times more votes than he does and he has no interest in taking the time to know the people of the village that has one of the highest rates of alcoholism, suicides,

unemployment, domestic violence and . . . Tom looks out the window and asks, where the hope?

To Affect Local Affairs, Create Municipal Governments

In 2013 one of the most unpopular ideas in the Unorganized Borough of rural Alaska is the Borough form of local government. The Borough is akin to what is known in the Lower 48 as the County form of government. This use of the word ‘Borough’ was written into the Alaska Constitution to give local people the opportunity to incorporate their ideas, feelings, lifestyles, and general attitudes as much as possible into their local government charter (constitution).

Under the local government section, in plain and simple language, Alaska’s Constitution is clear. “The purpose of this article is to provide for the maximum local self-government, with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local governments units.” (State of Alaska Constitution, Article X, Section 1) Thus, with the simplest of language, the framers of the state’s Constitution formalized what the local people wanted most - to control and affect local affairs.

All of the tribal governments in Alaska lack a land base, except for Metlakatla (Venetie and Elim took title to their surface and subsurface of their former Indian reserves under ANCSA) and do not have the powers used by Borough governments to govern and regulate activities within the jurisdiction of said government. Those powers include the power of education, municipal landfills, the police power (i.e. power to

provide for the health and welfare of its citizens), planning and zoning and the power to tax.

The powers to tax and to regulate through planning and zoning capture the attention of corporations all over the world (the less they pay in taxes to local governments, the higher their dividends to their world-wide shareholder base). The big challenge, as it is everywhere in the world where there are large mining developments, is to keep the corporation from capturing the local government.

What several of the regional corporations (i.e. Chugach Alaska Corporation (CAC) and Doyon Ltd.) and village corporations (an assumption is made here because original village shareholders are also shareholders in regional corporations) are seeing is the number of non-Alaska Native shareholders and non-resident Alaska Natives increasing. If local people want to impose their kind of restrictions on resource development, they must create a form of government that will give local people the kind of power to affect the changes they want.

The idea of City and Borough status seems repugnant to many non-profit organizations, particularly those servicing rural Alaskans. However, once local people are in full realization of what a Borough form of government can do for them, they warm to the idea of forming Boroughs. Such has been the case with the rural residents of the North Slope, Northwest Arctic, Yakutat and Denali areas of the state.

What is required to advance controlling and influencing policies on economic development in rural Alaska is leadership that comes with vision and focus. The answer to the questions related to corporate democracy are fraught with pitfalls and political

hurdles and it is unlikely that with a growing number of non-Alaska Native shareholders and non-resident Alaska Natives such changes will happen unless there is political and economic pressure from within the regional boundaries that will force regional corporate boards to respect Article X, Section 1 of the Alaska's Constitution. By creating a local government within their village corporation boundaries the village residents, by participating in the public processes mandated by all constitutions (United States and Alaska), can foster and promote the interests of the village corporation or they can channel it to stay in step with the interests of the local residents.

With dozens of mining prospects on file with the Alaska Department of Natural Resources in 2013, it is likely history will repeat itself as in the cases of Prudhoe Bay and Red Dog mine. Resource developers may have to choose who they will want to work with if the mining prospect is in the unorganized borough. In the case of Prudhoe Bay, the oil corporations were opposed to having their operations within the boundaries of a borough whose likely-voting population was mostly Inupiat Eskimo. Despite intense lobbying by the oil industry, the North Slope Borough (NSB) was created making it the largest county-type government in the United States (see *Then Fight For It* by F. Paul [2003]).

In the Red Dog case, NANA Regional Corporation worked with Teck Resources Limited, a transnational corporation headquartered in Vancouver, Canada, to facilitate the creation of the Northwest Arctic Borough (NWAB). Teck's strategy was totally different than the oil industry's strategy. This is because the oil on the Arctic Slope was owned by the state and there was little need to work with the resident Inupiat Eskimos who were not

yet organized into a borough. NANA supported the creation of the NWAB because it would mirror the regional corporation's boundaries and any development would impact many of their shareholders since many of them were residents of Kotzebue or the region's villages.

Many of the mining prospects are in the Unorganized Borough, an Alaska Constitution designation meaning that the area has not yet organized into a county-type local government. Though in 2013 the Unorganized Borough comprised 57% of the state's area, it had less than 10% of Alaska's population. (Bockhorst, 2001, p. 2) With so much of the state rural and without local governments, transnational corporations have the opportunity to strategically consider what nearby borough they wish to be in or what kind of borough they might want to foster. Such may have been the case with Greens Creek mine.

At a February 1992 public hearing of the Alaska House of Representatives Community and Regional Affairs Committee on a resolution disapproving the annexation of Greens Creek into the City and Borough of Juneau, then Grand President of the Alaska Native Brotherhood Albert Kookesh testified that his village of Angoon had problems with the annexation. (Alaska State Legislature Hearing, 1992) During the hearing, Borough Mayor Jamie Parsons testified that Juneau had a "documented history of understanding and a responsible approach toward the complexity of the Greens Creek Mine annexation." When asked, Mayor Parsons confirmed that Greens Creek had approached the city. (Alaska, 1992)

Arctic Slope Native Association (ASNA) was the only regional Alaska Native association to vote against accepting the offer from the United States, which was embodied in the 1971 Alaska Native Claims Settlement Act (ANCSA), (Public Law 92-203). At the special convention of the Alaska Federation of Natives held on the campus of Alaska Methodist University in December 1971, ASNA President Joe Upicksoun spoke against adoption of the resolution which passed 511 to 56. He felt that the Inupiat Eskimos of the Arctic Slope were being taken advantage of. "For the right to explore a mere 412,000 acres of our land, the oil companies paid the state of Alaska over \$900 million. We did not receive one penny of this amount." (Bauman, 2005)

Because there were fewer than 3,000 [2,663] (U.S. Federal Census, 1970) people north of the Brooks Range, (56,842,956 acres), many bureaucrats and politicians felt that the Borough proposal was too big. However, for the Inupiat Eskimos it made perfect sense from a lands claim perspective. Under ANCSA the Inupiat Eskimos of the Arctic Slope gave up 51 million acres in exchange for \$5 million. The small villages and Barrow residents felt that they did not receive what they were entitled to and so sought a way to diminish the control and influence of the oil industry's operations at Prudhoe Bay.

Since the Arctic Slope Native Association's North Slope land claims were essentially the leverage for a settlement, once a settlement was achieved they would lose that leverage. The leadership sought ways to benefit local residents from oil development. It came about from local government. As attorney Fred Paul explained, "The North Slope Borough is one of man's grandest inventions. With its creation on

1 July 1972, the Inupiat living on the North Slope acquired the means they had long needed to deal with the white man's world on their own terms." (Paul, 2003)

Among the authors of the State's constitution, written in 1956 in Fairbanks, were many entrepreneurs who were fearful of a central government, which from anywhere in Alaska was far away. They favored local control and the concept of a Borough that would have extensive local control.

An Alaskan borough is a municipal corporation, comparable in many ways to a county in the Lower 48. It has power to plan and zone, assess and collect taxes, provide for police, manage schools, promulgate building codes, etc. If, for example, an entrepreneur wished to build a pipeline within a borough, he need only secure the consent of the borough's legislative assembly, a consent no other government agency could override. (Paul, 2003, p. 237)

The realization of what local government can do that a tribal government cannot do is summed up in Fred Paul's comment.

Even more clearly, I was coming to realize that here was the means of securing for the Inupiat the power to zone and tax their land. By zoning the oil fields, they could protect the lands important for subsistence. By taxing the oil fields, they could build their own schools. Taken together, the powers of zoning and taxation were almost equal to ownership. (Paul, 2003, p. 238)

The maximum local control provision of the state's constitution allows it to do what the state government may not want to do, including the recognition of Alaska Native organizations. For example, in a unique provision of the Denali Borough Charter there is recognition of Alaska Native organizations as having the same status as local governments.

The Denali Borough may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by agreement with any one or more local governments, the state, or the United States, or any agency or instrumentality of these governments. In the context of this charter, local governments include [Alaska] Native organizations. (Denali Borough Charter, Preamble, Article One, Section 1.04.)

The state's strong local government section of the Alaska Constitution can be used to protect and advance local traditions, cultures, and knowledge such as clearly implied in the Denali Borough Charter. Another example is the Northwest Arctic Borough, the creation of which was promoted by NANA Regional Corporation, Inc., the ANCSA Regional Corporation for the Inupiat Eskimos of northwest Alaska. With part of NANA's regional lands outside of the regional boundaries and within the North Slope Borough, the leadership of the NANA region felt uncomfortable and moved successfully to detach the Red Dog mining district to form a new borough called the Northwest Arctic Borough.

The Northwest Arctic Borough (NWAB) does not tax the regional corporation's Red Dog mine but receives a payment in lieu of taxes. One of the main concerns shared universally by residents of unincorporated areas of the state is the fear of taxation but, as shown in the NWAB case, it does not have to be so.

What the North Slope Borough (NSB), Denali Borough, and NWAB had in common was leadership that recognized the powers granted under the State's Constitution to local people to influence and control their own destinies. As Fred Paul explained, the power to tax and zone is "almost equal to ownership." (Paul, 2003, p. 238) In other cases in Alaska, for example, the annexation of the then proposed Greens Creek mine on Admiralty Island by the City and Borough of Juneau was a local effort by residents of that borough to expand their regulatory and taxation powers to an additional 140 square miles. (Blatchford, 1994)

Greens Creek on Admiralty Island was annexed by the City and Borough of Juneau in 1994 is near Angoon, a predominately Tlingit Indian community. The mine is a lost opportunity for local people to directly benefit from resource extraction. The mostly Tlingit Angoon is approximately 56 miles from Juneau. Juneau is 55 miles from Greens Creek and Angoon is 41 miles. In 2006 the mine paid the Juneau Borough over \$800,000 in property taxes. (Forgey, 2007) The Hoonah-Angoon population, according to the 2010 census was 2,129 and for the City and Borough of Juneau, it was 32,556. (U.S. Census, 2010.) The property taxes of the Greens Creek would have gone a lot further in Angoon and Hoonah in addressing local needs than in Juneau.

In an opinion/editorial in the *Juneau Empire*, the mayor of Angoon wrote that the U.S. Forest Service did not listen to Angoon residents about Greens Creek. Mayor Richard George wrote about costs and benefits of mining on subsistence foods.

In these ways, Angoon has incurred the costs of Greens Creek Mine, but it's Juneau that's received the benefits. When the mine first got started, five representatives from Greens Creek came to Angoon. We told them we had people that wanted to work, and we also offered to help with transporting employees to the mine. We informed them of our efforts to develop hydropower in Thayer Lake, and our desire to work together to make power for a mine in a way that would benefit both of us. But those words seem to have fallen on deaf ears. All of those benefits went to Juneau. Juneau gets the property taxes. Juneau residents get the jobs, and Juneau's economy benefits being the main port for the mine. Meanwhile, Angoon has only received a few thousand dollars each year in scholarships. (George, 2012)

The Greens Creek annexation by the City and Borough of Juneau was presumably part of a long-term strategy by the transnational corporation (a partnership of Kennecott, Hecla Mining and two Rio Tinto subsidiaries) in picking the local government they wanted to work with. Greens Creek was discovered in 1975 and full scale development started in 1987 with production beginning in 1989. In 2009 the mine produced 7.5 million ounces of silver and 67,000 ounces of gold. It is the largest private employer in Juneau with a payroll of almost 300 workers. (Ground Truth Trekking, 2012)

There are other examples of local people assuming leadership positions to protect or advance local interests. The creation of the City and Borough of Yakutat in the mid-1990s gave local residents planning and zoning power and the power to tax 9,463 square miles. Yakutat is home to a strong tribal organization and an ANCSA village corporation, Yak-Tat Kwaan.

Seven years after passage of ANCSA, the Federal-State Land Use Planning Commission was pessimistic there would be subsurface development sufficient to alleviate chronic unemployment in rural Alaska. In the report's policy recommendations it noted the problem.

Major development of subsurface resources is often held out as a panacea.

It is important to point out, however, that most resource development in Alaska has been carried out by workers commuting from the State's major urban centers or even from outside Alaska rather than by rural residents.

Except for some fisheries, Alaska's resources will undoubtedly continue to be developed that way. In addition, resource development opportunities will take a long time to mature. (Commission Study, 1971-1979, Summary and Findings, pp. 16-17)

Most of the government policy recommendations (either state or federal) of the 1970s and the 1980s did not recommend the creation of local governments to create and further opportunities for local residents. But that was before the Red Dog mine, Greens Creek mine and the anticipated Pebble mine and Donlin Creek mine. Nor did the issues of non-resident shareholders and non-resident, non-Alaska Native shareholders and a

growing Alaska Native population come into general discussion, although the issue of how to bring in the 'afterborn' Alaska Natives was allowed in the 1991 amendments. The amendments, however, did not address 7(i) profit-sharing of the mineral estate.

There are powers that can come only through organizing a municipal government under Alaska's Constitution. The most important powers cities and boroughs have (depending on designation) are taxation and the planning and zoning power (land use regulation). With those two powers, once local people organize into an Alaska Constitution-authorized municipal government, those who do business, or want to do business within the geographic boundaries, have to respect local ordinances passed by the local assembly who are elected by local people. There is one Indian reservation in Alaska, Metlakatla and no others. All other tribal entities in Alaska do not have power over non-tribal members, or the powers of taxation and planning and zoning (land use regulation).

While tribal governments should be encouraged to assume control of issues reserved for Native American tribes such as small business incentives, education, and child welfare, such governments do not have the power to tax and regulate developments on Alaska Native corporate lands. Opportunities to regulate and tax should not be lost to large urban boroughs eager to annex potential revenue sources. Such eagerness prompted protective actions such as the creation of the Denali Borough to prevent the outstretched hands of the Matanuska-Susitna Borough and the North Star Borough (Fairbanks and adjacent areas), which saw the potential revenues in the numerous lodges and hotels in and near Denali National Park and Preserve.

The Demise of a Concept, Pure Corporate Democracy

President Nixon's signature on the 1971 ANCSA ushered in a bold, new experiment on how to deal with indigenous peoples. The passage of the act came just as federal Indian policies were changing into a new direction of civil rights and social justice. "Congress tried an experiment for Alaska that blended self-determination and assimilation: land-owning corporations with [Alaska] Native shareholders. It was an experiment that hasn't been repeated." (Zizzia, 1997a)

Almost two decades after passage of ANCSA, the issues turned to how to unravel the federal law - not repeat it. "You're kind of a footnote off on one of those tangents in federal policy," South Dakota Deputy Attorney General Larry Long said in 1997. (Zizzia, 1997b) The footnote's footprint is large, 68,000 square miles owned in a split estate with the regional corporations owning all of the subsurface and the village corporations owning some of the surface estate.

For many, the land claims battle was based on ideals of justice, fairness and equity. The corporate concept was unfamiliar to the thousands of Alaska Natives who participated and watched the years of deliberations and political maneuvering that began in earnest with the formation of the AFN in 1966. But the concept of ANCSA was based on the image of Lower 48 Indian Reservations. As the realities of corporate status based on public-traded concepts began to take form, seeds of resistance began to sprout.

Long portrayed as islands of poverty and despair, by the 1980s the image began to take a new form, to reshape itself. Lower 48 Indian rights' organizations and scholars saw what Alaska Natives felt which turned into legal battles in the state and federal

courts. “Congressional support for Indian self-determination has changed the face of Indian country,” (Kizzia, 1997) Colorado law professor Charles Wilkinson said in 1997.

No one when ANCSA was passed would have predicted the kind of renaissance we’ve seen in Indian country. . . In hindsight, ANCSA was the wrong idea. What we know now is governmental status is far more effective than corporate status. . . There’s no question that the reservations were downtrodden. But in every area a person could name, the tribes are making deep progress. And they are making it themselves. (Kizzia, 1997)

Since 1966, however, there has been an evolution of how regional boards of directors operate. It is undeniable that there would be no ANCSA today had it not been for the volunteer efforts made by those on the non-profit advocacy associations.

By the time of ANCSA, the non-profit Alaska Native association boards of directors had become expert at the meeting rules of procedures imbedded in all western democratic processes. Board meetings could be contentious and stressful as directors and subsistence users haggled and negotiated with each other (and with other Alaska Native associations, governments, and special interests). Tempers often flared. All were equal. All could speak, and often they did. The deliberative processes of the Alaska Native non-profit associations’ boards were exercises in pure and simple democracy where threats of legal action were unheard of. There was no money to pay lawyers to sit in on the board meetings. When the for-profits corporations came into existence, it was almost an

irrefutable presumption that the lawyers drooled with anticipation when personal conflicts could easily be turned into billable hours.

Knowledge and knowing how to use *Roberts' Rules of Order* gave a director influence and real power which was respected by the board members. It was often said that the leadership of the southeast Alaska Native groups knew the rules of procedure better than any other group of Alaskans and to go into a meeting with a Tlingit and Haida Central Council board member was risky business.

The Alaska Native associations' exercise of democracy changed with the creation and implementation of ANCSA for-profit regional corporations. There were settlement funds and the money to pay for lawyers who regularly attended the meetings and often ruled on parliamentary questions. If the shareholder was a member of the board's majority the shareholder had a stronger chance of getting the legal questions addressed by corporate counsel. Such easy access to corporate funds enlarged the definition of influence and control because being in the majority on the Board meant the shareholder could use corporate funds to further the shareholder's personal objectives. If the shareholder was in the minority it was unlikely that the shareholder would be able to self-fund the defense of the shareholder's character and reputation via the courts.

It was often said that in order to get anything done on an ANCSA board, all the shareholder had to do was to count to seven (a majority of a twelve-person board) or five (a majority of a nine-person board). Everything else was just noise.

It is also said in politics, at least in those of the far north variety, that he who controls the purse strings controls the votes. That is probably why there is so much

competition and so much political wrangling for legislators to get on the finance committees. Such is the case with ANCSA regional corporations' politics, at least with CAC. How CAC deals with dissent and shareholders' rights is succinctly expressed in two Alaska Supreme Court cases. Though the issues were personal, the issues morphed into expensive and inappropriately applied ethical allegations. It was all politics, and only because one person wanted to be chair and another did and the conflict resulted in the regional corporation board's decision to fund litigation that cost the shareholders hundreds of thousands of dollars. The law firm was, no doubt, inspired by the legal issues and not the money.

The Henrichs' cases exemplify the trumping of *Robert's Rules of Order*. It is no longer how well the shareholder knows parliamentary procedure - if at all - but how much control the shareholder has over the purse. After all, as it is known in the legal profession, it is not whether a person is right or wrong, but whether the person can afford the best legal representation money can buy. Lawyers, as all know, are not advocates for justice, equality, and fairness. Lawyers are advocates for the best interests of their clients - those who can afford them.

The first of the two recent Henrichs cases is an example of how majority rule can shift understandings, meanings, interpretations, and attitudes towards a director who falls from being a member of the majority to outcast status on a regional board of directors. Robert J. Henrichs is a former director and chairman of CAC. In 2005 Sheri Buretta was removed as chair in the middle of her one-year term and Henrichs was elected to head the nine-person board of directors of CAC. Sherie Buretta, upset that she lost her job,

became involved in a campaign to get her job back. An ad hoc shareholders committee was organized and hired “one of the country’s leading business and litigation law firms, with approximately 500 attorneys and offices throughout the U.S. and China.” (Davis Wright Tremaine, LLP, <http://www.dwt.com/>) Six months later, following a successful proxy campaign, Buretta was again elected as chair and immediately appointed an investigations committee to look into the allegations she and her supporters had made. CAC also hired the ad hoc shareholders committee’s law firm, Davis Wright Tremaine, to investigate the allegations. Davis Wright Tremaine then represented CAC in a state case against Henrichs that went all the way to the Alaska Supreme Court. The Supreme Court decided in CAC’s favor and affirmed the lower court’s ruling which found Henrichs had violated his fiduciary duty as a director and banned him from service on the board for five years. (Henrichs v. Chugach Alaska Corporation, 2011)

Henrichs’ legal bill was about \$50,000. CAC's Davis Wright Tremaine legal cost and expenses were not disclosed. Henrichs’ lawyer practiced law from a one-person law office in southeast Alaska. In addition to the rumored \$1 million cost of litigation against Henrichs there were other undisclosed costs, such as the legal expenses for the ad hoc shareholders’ committee that solicited proxies for chair who was removed. As was said, he who controls the purse strings controls. After the removed chair’s reelection, the board immediately voted to reimburse the expenses of the ad hoc committee which was, in most parts, composed of themselves.

In the other case (Henrichs v. Chugach Alaska Corporation, No. S-12878, August 26, 2011) the relevant facts are simple and pure politics couched in terms of legalese and

corporate law based on legal interpretations more applicable to publicly-traded corporations. Heinrichs, a minority member of the Board, was denied a place on the management ballot and so was left to run as an independent candidate as were two other shareholders who were former directors, one of whom was also a former chair. He requested a shareholders' list of names and addresses and when he did not receive the mailing list he filed suit in Alaska Superior Court on September 1, 2011. On September 7, 2011 CAC emailed Heinrichs the mailing list and on September 9, 2011 CAC sent out its proxy. Since time is of the essence in order for shareholders to have a chance to win the early bird prize by getting their proxy in, who first sends out her/his proxy is in a better position to get the proxy vote. Since CAC was first with the mail out and Heinrichs had yet to label his proxies and envelopes, he was at a disadvantage. (Heinrichs, 2011)

The Alaska Supreme Court also ruled in CAC's favor by affirming the lower court's decision that the regional corporation had no legal obligation to fulfill Heinrichs' request for telephone numbers and email addresses (Heinrichs, 2011)

CAC uses phone numbers and email addresses to solicit proxies. There were other issues in the case.

Heinrichs used his own funds to file and appeal the lawsuit. His lawyer, as in the above stated case, is from southeast Alaska. CAC's law firm has offices in Oregon, Washington, Anchorage, and other parts of the country. Among the firm's specialties is Native American law and minority contracting such as SBA 8(a) contracting.

The Heinrichs' cases highlight corporate statutes and regulations versus fundamental democratic principles. The Alaska Supreme Court favored Alaska statutes

and regulations and corporate bylaws. The Alaska Supreme Court cited Heinrich's argument that "Chugach violated fundamental democratic principles established by public election cases and rules of equity that promote fair shareholders' meetings. But we conclude that we should refer to the Alaska statutes and regulations, and corporate bylaws that more directly relate to the questions raised on appeal." (Henrichs, 2011)

There are other cases involving regional corporations and dissident shareholders or directors. Often the majority on the Board of Directors uses the law firms to neutralize, intimidate or punish independent voices on the boards. And, as in the Heinrichs cases, the court's interpretations of applicable law are based on precedent and case law of issues involving publically -traded corporations. This situation is changing; however, as each Alaska Native corporation's successful lawsuit against a dissident shareholder becomes part of a foundation of case law and precedent that favor the ANCSA corporations.

If an ANCSA shareholder is to have the right of dissent, the law and the application of the law has to change. For example, the law is now used to deny shareholders access to information that could level the playing field in election of directors. In Heinrichs the majority on the Board used their control of the Board to deny him a place on the ballot and then used the statutes and regulations to delay giving him the shareholders mailing list which gave the Corporation an advantage.

The Heinrichs case is a classic one and clearly demonstrates, when taken to extremes, shareholders are the losers when their corporate money is used to pay legal costs of shareholders who are directors who own roughly the same number of shares as

everybody else. Many of the rules, procedures, laws, and legal precedents were adopted from publicly-traded companies and when land claims were filed, they were not under consideration and in no case were they understood by the Alaska Natives living in rural Alaska.

How much information goes to the shareholders and how much is needed in order for shareholders to make informed decisions on who to vote for is left to be decided by the boards of directors.

The superimposition of the mores and values of publicly-traded corporations over the privately-held ANCSA corporations have become the foundations on which poor corporate behavior of Alaska Native corporations is justified to the detriment of shareholders who were all created as equal shareholders by the U.S. Congress.

Alaska's federal representatives have to be careful not to offend the regional corporations especially in light of the 2010 Citizens United U.S. Supreme Court ruling which held that the First Amendment applies to corporations and labor unions. This means that corporations can give unlimited amount of money to political candidates.

In a U.S. General Accountability Office (GAO) December 12, 2012 report on regional Alaska Native corporations, the GAO made no recommendations but in its findings it stated the oversight was limited.

Alaska Native corporations are subject to some financial reporting requirements under federal and state law, but oversight of the reporting is limited. The Alaska Native Claims Settlement Act generally exempts the corporations from complying with federal securities laws while requiring

them to annually provide a report to their shareholders that contains ‘substantially all of the information’ required to be included in an annual report to shareholders by U.S. Securities and Exchange Commission registrants. The Settlement Act does not provide for a federal role to monitor the corporations’ compliance with this requirement, and oversight by the state of Alaska is generally limited to enforcement of state securities laws and proxy regulations. (United States Government Accountability Office, 2012, p. 29)

In rural Alaska there is an absence of investigative journalism as it is commonly understood. The rural Alaska’s advertising base is not large enough to generate the revenues to hire the skilled reporting teams necessary for investigative journalists to uncover the stories and truth behind rumors of corruption and wrong doing. Story leads are not followed through. For example stories on government defense contracting were not reported by the Alaska press organizations but by major dailies in Washington, D.C. and in Los Angeles. The stories on the Small Business Administration’s 8(a) Program created significant interest in the U.S. Senate. The subcommittee on contracting oversight held hearings that culminated in changes to the minority program. Alaska media then reported the stories by using the wire service.

Government sanctions may not be reported in corporate management newsletters, often the only source of information shareholders have about their corporations. Newsletters are a public relations tool and information can be spun to put any infractions in best light.

There are many subsidiaries and joint ventures, many of them under names that would not draw attention to the fact that they are owned by ANCSA corporations or other subsidiaries. The overlapping business interests make it challenging to connect the dots and follow the trail of money.

As management newsletters are the only source of information for many of the shareholders and with the trend of original ANCSA shares migrating to Lower 48 states, even if the Alaska press were to report on allegations of corruption, wrong doing, and ethical lapses, it is unlikely that shareholders widely dispersed throughout the United States would be aware of what is happening. It is well to keep in mind that newsletters are not journalism. Newsletters are simply management's tools to get their sides of the information out to the shareholders. Media outlets, on the other hand, at least strive to be objective and balanced by reporting both sides, or multiple sides of a story as objectively as possible – at least that is the goal.

The lack of public and independent monitoring of ANCSA corporations creates opportunities for unscrupulous managers to siphon off financial benefits for themselves rather than going to the bottom lines of the holding companies and then to the shareholders in the form of dividends.

Since the ANCSA corporations were congressionally created, arguably Congress can step in and establish a framework to protect shareholders' rights. What could be created by congressional action could be similar to the Indian Gaming Commission which arose because of the concerns expressed by states that organized crime would

infiltrate the casinos (particularly where Indian reservations were near major cities).

(Public Law 100-497-Oct. 17, 1988 100th Congress Sec. 2701)

The difficulty of getting government monitoring established must not be overlooked. The regional corporations and many of the village corporations have become skilled and sophisticated lobbyists and know very well their way around state and federal legislative offices. This sophistication of political ways was seen in the 2008 write-in election of U.S. Senator Lisa Murkowski. Had it not been for the ANCSA corporations it is entirely likely that another person would be Alaska's Senator.

How well an ANCSA corporation works and operates in the state and federal political environment has tangible benefits such as the U.S. Small Business Administration's 8(a) Program. Other benefits include the sale of net operating losses and the trading of uneconomical lands with the federal government for more valuable lands; such is the case in Southeast Alaska.

The need for monitoring is huge. The ANCSA corporations hold billion dollar contracts with the Department of Defense. The total since the U.S. Small Business Administration's 8(a) Program was expanded to include Alaska Native corporations is estimated to be billions. Between 2000 and 2008, sole-source contracts to Alaska Native corporations were \$6.6 billion (\$23.7 billion in total 8(a) contracts). The Senate committee that has oversight responsibilities also estimated that there are approximately 45,000 employees of the Alaska Native Corporations, 95% of whom are not shareholders of ANCSA corporations. (United States Senate, 2009, p 3)

The Alaska Native corporations have been publically criticized for the lack of or meager numbers of shareholders, descendants of shareholders, or other Alaska Natives employed in the Small Business Administration's 8(a) Program ventures. When the Alaska Native corporations are on the defensive, as has been the case, the other side of the story is not reported in the management newsletters. When it is reported elsewhere it only spurs an emotional reaction that the government is messing with the Alaska Natives – again.

Congressional action is needed in the form of monitoring devices and authorities to protect not only public interests but the shareholders interests from the business ventures that are often out of sight – way out of sight – such as embassies or military installations in Asia and Europe. Any such effort to create monitoring devices will be strongly opposed by the regional corporations not only with the Alaska delegation, but in other states with their congressional representatives.

Perhaps the most important assumption of the moral duty to advance and protect the new generations of shareholders who either own original shares or hold life estate shares is education. As a shareholder dies, the inheritor of that share or those shares must be told what his or her rights, duties, privileges, and responsibilities are as a shareholder in a Alaska Native corporation. Rarely is this done. Once a will is opened after the death of the shareholder, the new shareholder receives notice that he/she is now a shareholder. The shareholder then starts to receive the management's newsletter which is followed by the annual report and the newsletters.

Management tactics and legal tools are expensive and rarely do shareholders have the financial means, stamina, endurance, and focus to fight them and continue to press on like Heinrichs. His cases are not rare and he alone bore the entire costs and expenses of litigation. The most effective weapon to use against a dissident shareholder is to overwhelm him or her with paper such as claims, counterclaims, interrogatories, depositions, and requests for information. Dissident shareholders rarely have the resources to travel to distant places where management holds informational meetings and even if they do, are rarely invited to speak or to present other points of view.

The shareholders' playing field must be level. Since the ANCSA corporations are privately held companies and all Alaska Natives alive on December 18, 1971 were created as equal shareholders, the practices of publically traded corporations should not be used to suppress corporate democracy.

Chapter 6

Prelude

The wind blew from the southwest, driving the temperature down on a cold February afternoon, 2076. The sharp gusts mattered little as Robert huddled close to his aging snow machine used as a windbreaker to keep the drifting snow from covering his fishing hole in the ice where the river meets the sea. He looked beyond the wretched smatterings of government financed low-income homes cluttered together towards the Bering Sea, protein breadbasket of the world's upper middle class. Looking down at his catch of the day, five tom cod in two hours, not bad he says to himself, though it is definitely not as good as the elders tell him it used to be.

Turning around, Robert looks two miles in the distance at the multi-story dormitories used to house the mine's 2,500 workers who fly in for two-week stints. The dorms sit in the middle of a spacious complex of small shops, movie theaters, gym, and even a couple of franchises that sell hamburgers, milkshakes, and fries. The mine treats its workers well and has everything in the camp to remind them they are not in the treeless tundra on the edge of nowhere. The workers make an average of \$125,000 a year for their skills. Robert is now the tribal administrator and he earns \$55,000.

The mine sits on land the village corporation used to own. According to the 1970 U.S. census, there were 200 people living in the village; 195 were Yupik Eskimos and the other five were non-Alaska Natives - three schoolteachers, a missionary and a merchant. Three of the five spoke Yupik and were married to local women. Two of the schoolteachers were a married couple and were in their mid-20s. They graduated from a

teachers college in southwest Texas and when they attended community social events they appeared unhappy. None of the elders expected the couple to remain in the village; in fact, the betting was that they would be on the first plane leaving the village on the last day of school. It had happened so many times over the decades that it was almost a custom for teachers. It was not always the fault of new school teachers or any newcomer unfamiliar with life in a village.

For someone new it was like trying to pierce a gapping social hole of intolerance. Like in many small communities around the world there was a tendency not to trust outsiders which was anyone who was not related to someone in the village. Villagers were slow to accept anyone not familiar with local customs or traditions. Whenever a new teacher arrived to teach at the small elementary school and high school there was a suspicion-like attitude that some described as intolerance. It was a difficult adjustment especially for newly-graduated teachers from Outside colleges. It was also sometimes difficult for government workers and even regional corporation employees to interact with the villagers.

In the hundred years since ANCSA, all of the original shareholders have died. The shares of stock are now dispersed all over the country, all over the world, and only a few of the Alaska Natives in Robert's village have shares. He used to consider himself lucky. He has two shares in the village corporation and two in the regional corporation (Robert may inherit a couple more shares since his unmarried great-great uncle told him Robert is in his will.). At least, Robert thought, he could go to the shareholders' meeting,

which are closed to all non-shareholders, and speak - well, address the issue on the agenda for up to three minutes.

Robert attended the mid-October 2075 regional corporation's annual shareholders' meeting in Chicago. While there, Robert and Tom (now living in New York City) introduced their wives and children to each other. Both have two children. The families had a most enjoyable time over lunch and then again over dinner, though none of the family members could go onto the floor of the shareholders' meeting.

On the way back to Alaska, Robert attended the village corporation's annual shareholders' meeting in Portland, Oregon. Robert and his wife, also Yupik, met many aging third and fourth cousins. Few, if any, had more than one-sixteenth Yupik blood and none had ever been to the village except for Tom who made a yearly day trip to meet with the mine's closest neighbors.

Robert is one of the few locals with a college degree. He is well-liked and well-respected by almost everyone in the sub-region. He is also well-known throughout Native Alaska, mostly because of the several gold medals he won at the World Eskimo-Indian Olympics.

During the Chicago meeting Robert could not help but think of the comparisons that his college professor in 2071 had made with the Oklahoma Indian Territory and ANCSA. The state of Oklahoma came into the union with the merger of the Oklahoma Territory and the Indian Territory in 1907 and both territories ceased to exist. Under ANCSA, the use of the corporate system westernized and caused loss of traditional lands and resources. In both cases, as in all situations, the Native Americans were the losers.

Robert wished he had paid closer attention to the ancient professor. Maybe he would have more knowledge of potential solutions to two centuries of alienation from the time the United States purchased Alaska, to ANCSA, to this cold February day. Two hundred and nine years and still Alaska's Natives are faced with daunting challenges of employment, education, domestic violence and prejudice.

Though there are many thoughts colliding in Robert's mind as he surveys the landscape there is one inescapable question, why is it that so many non-Alaska Natives have benefitted from this Alaska Native land and so few Alaska Natives?

A year ago Robert was in the same place at almost the same time and deep down he was thinking about the same thing.

During the past four years as a tribal employee, Robert had become frustrated with the seeming lack of progress in the general condition of the tribal membership. There are more children, more adults, and the same amount of program money for more tribal members. The village has not grown but as adults slowly drift away children who become adults replace them.

When Robert arrived home after getting a four-year degree from the University of Alaska, he was full of hope and enthusiasm. He convinced the council that what the tribe needed to do was to open the gates of opportunities that existed just two hills over on what used to be the surface estate of the ANCSA village corporation.

Robert received a great deal of encouragement from his friend Tom, a fellow shareholder, but a non-Alaska Native and an owner of 100 inherited original shares. Tom regularly attended the meetings of the regional corporation's subsidiary that owned

and operated the mine. As a senior advisor to the regional corporation's chair, Tom surely could help; after all Tom's primary area of expertise was in shareholder-hire.

Tom and Robert worked well together. They developed a list of 25 eligible local adults who were unemployed and expressed an eagerness to work at the mine. Tom prepared to make a presentation to the chairman of the board. With over 2,500 workers and an annual turnover rate of 10%, Tom and Robert thought it would be easy to fill 25 jobs with local Alaska Natives.

The corporation that owns the subsidiary corporation that operates the mine has a policy of non-interference in the day-to-day management of operations which are run from the subsidiary's main office in Vancouver, B.C. Translated down the management chain, that means the local production and operating managers have ultimate say over who operates the heavy equipment, cooks the meals, cleans the dorm rooms, does the bookkeeping, expedites the supplies from the airport to office, etcetera. All of the hiring bosses are long term employees and most are from the western states. All of the workers that they supervise are from the home areas of the local bosses. They have strong feelings about following the hiring rules and processes.

Robert and Tom scrutinized the list of unemployed 25 locals. Ten did not have driving licenses, a requirement that could not be waived. Eight did not have a minimum of two years' experience, two had criminal records (fishing without a license), seven lacked a high school diploma or a GED, and three had documented encounters with mine workers over allegations such as bringing alcohol to the village, a dry community. To

complicate matters, none of the 25 local residents were members of the International Union of Resource Workers, Local 85, with the main office in Tulsa, Oklahoma.

In a telephone conference call, Tom, from his 27th floor corner office in New York City, urged Robert not to proceed with the presentation until at least a majority of the 25 villagers could become eligible to be on the list of prospective employees. Tom was unsuccessful in persuading Robert not to present all 25 applications to the mine's part-time personnel office two miles away. Six months later all 25 local residents were deemed not eligible for hire. That was when Robert decided to run for the regional corporation board of directors and the village corporation board of directors. Again, Tom tried to dissuade Robert but to no avail, Robert persisted.

The tribal council, Robert's employer, gave him the go ahead to proceed with a run for both boards of directors. The council did not expect much but, at least it would be a reminder to the regional and village corporations that they were created out of ANCSA.

The scheduling and timing was perfect for a family vacation and attending the annual meetings of shareholders in places he had never visited - Chicago and Portland. Robert's wife was excited! Neither she or Robert had been out of the village for two years - plane fare was expensive, even to fly to Bethel.

Behind the scenes, Tom coached Robert on his bid for the regional board of directors. Tom could not risk losing his job - he was making well over \$400,000 a year, plus bonuses. One of Tom's Harvard Business School classmates was contacted and he agreed to help with the campaign, pro bono.

Robert downloaded the candidate's forms and Tom contacted 20 of the 25 people needed for the petition form. All candidates for the regional board were required to submit a petition of candidacy signed by 25 shareholders attesting to the candidate's good behavior. Robert found the other five shareholders, and with glee Robert submitted his declaration of candidacy along with the petition.

A tug at Robert's tomcod line brought Robert back to the village on the delta. He smiled and after bringing the fish out of the ice hole, he watched as its withering slowed as it quickly froze. As the cod finally stiffened to move no more, Robert's fresh memories of ANCSA corporations' politics saddened him. He was a shareholder, a Alaska Native shareholder, and a resident of a Alaska Native village whose corporation once owned the land on which the mine's infrastructure sat. Yet, with all of that, the board's nomination committee declared him as unqualified to have his name on the regional corporation's ballot. To further darken Robert's mood, the village corporation's nomination committee also came to the same conclusion.

After the Chicago shareholders' meeting, Tom listened to Robert as he poured out his frustrations and anger. Tom could offer no advice and little comfort. Robert asked about equality and democracy - corporate democracy? Didn't ANCSA create us all as equals, equal shareholders with the same rights of participation as shareholders - access to the same information; wasn't this suppose to be a level playing field where one shareholder is no more equal and no less equal than all shareholders? Tom listened and finally said there is no such thing as corporate democracy. It does not exist now and it never did exist. Corporate democracy was an idea, though unexpressed and unwritten.

It was an idea that died in the winter of 1972 when the Alaska Natives on the boards of directors adopted the rules and procedures that the lawyers of publicly-traded corporation knew so well.

Conclusion

ANCSA continues to evolve into a body of law that is unique in its application to aboriginal peoples as attorneys' wordsmith interpretations and precedent to fit the best interests of their clients, the regional corporations. If the intent of the Alaska Native leadership was to maintain a democratic system of land and natural resources ownership and use by the Alaska Natives they represented, as it was commonly understood and traditionally practiced in villages throughout Alaska, today the governance of the regional corporations frustrates that intent by the political use of rules, procedures and practices of publically-traded corporations.

In an *Alaska Law Review* on bankruptcy in 1986, the authors conceptualized the issues at stake.

Business corporations were originally conceived as vehicles for voluntary investment of risk capital. Failure of the venture was foreseeable possibility from the outset and a risk assumed by the voluntary investor.

Alaska Native corporations, on the other hand, were created by a political process. Though the Alaska Native leadership testified at congressional hearings, participated in the drafting of many of ANCSA's provisions, and approved the bill prior to its signing, the individual Alaska Native did not make an informed and voluntary choice to subject his or her ancestral land

claims to the risks of a laissez-faire economic system. The original ANCSA may have left ambiguities about the role the corporations were to play and degree to which the corporations were charged with protecting the traditional way of life while creating a new one, but the Act clearly jeopardized the assets necessary for maintenance of the traditional lifestyle (that is the land) in the course of making it available for use as capital in the cash economy. (Black, Bundy, Christinson & Christinson, 1986)

The above law review article is a good example of the discussion of the corporation-type issues facing ANCSA corporations but there is very little discussion about the governance of the Alaska Native corporations. One of the primary arguments favoring the corporate system seems to be that governance was left vague to the extent that the corporation system protected the shareholder from the liabilities of the corporation as well as the officers and managers. But, how shareholders became presidents and chairs of boards is left unclear.

Another often quoted law review article was published in 1976 by the Duke University School of Law.

Congress directed that the settlement be administered under state law, and defined the precise manner in which [Alaska] native funds and income from [Alaska] native property were to be allocated. Within this statutory framework, though, the [Alaska] natives retain relatively unfettered control over their assets, and are free from Bureau of Indian Affairs supervision. ANCSA thus reflects a new departure in government

dealings with Indians - a policy which places on the [Alaska] natives alone the crucial task of translating the immediate benefits of the settlement into permanent, socially and economically productive enterprises. (Lazarus Jr. & West Jr., 1976, p. 184)

An assumption can easily be made that Congress intended the ANCSA corporations be governed in a manner similar to that of publically traded corporations. It can also be the case that Congress intended that the Alaska Native shareholders define the question of governance, although the legislation is clear when it states that the corporations will be incorporated pursuant to Alaska law.

A reasonable argument is Congress left governance of the ANCSA corporations vague so that the leadership of the corporations and the shareholders would define governance. This is in keeping with the intent of the people most impacted by the Settlement Act - the rural Alaska Natives - and since the Settlement Act is still in an experimental stage, how Alaska Native corporations are to be governed remains to be fully defined.

In the first election of a regional board of directors, Calista Corporation, the interim officers were struggling to come up with a definition of what an elected director was exactly. Fred Notti and Gilbert Hendrickson,

.... in explaining that there was no political tradition among the Eskimos along the Bering Sea before the white man came, tried to find a word in the Yupik Eskimo tongue that meant 'elected officer.' Mr. Beans suggested that 'atanah' might be such a word but after discussion they agreed that it was not. 'It doesn't

translate,’ said Mr. Hendrickson. ‘It could mean ‘respected elder’ or ‘adviser’ or ‘leader.’ Or it could even mean ‘God.’ (Turner, 1972)

Thousands of Alaska Native shareholders have died since 1971 and thousands more have inherited their shares, many who are non-Alaska Natives living all across the country and world. But there will never be more than the original number of outstanding shares established by ANCSA based on the number of Alaska Natives alive on December 18, 1971. The number of original shareholders has been estimated between 55,000 to over 60,000. Since the ANCSA corporations are privately held companies, the names and addresses of the shareholders are not available to the general public nor is access to the annual shareholders’ meetings.

There is little evidence that there is effective outreach by regional corporations to explain what shareholder status means to someone who has been gifted or inherited original shares. There is a lack of understanding among many new shareholders who do not know the difference between shares of stock created by the corporations for those born after 1971, the so-called ‘afterborn’ Alaska Natives. There is a need for more outreach to explain to all shareholders the value of the subsurface estate that falls under 7(i) of the Settlement Act.

Many of the ‘afterborn’ Alaska Native shareholders are often unaware that they cannot divest their shares through a Will since what they own is only for the duration of their lives. Owners of original shares, however, can leave their shares of stock to anyone, Alaska Native or non-Alaska Native.

Since all shareholders were created as equals by the Settlement Act, the most compelling need to fulfill by the boards of directors is to treat all shareholders as equals with equal access to vote and participate in the election of those who govern the ANCSA corporations. This would entail modifying or curtailing the use of cumulative voting by the boards.

At the annual shareholders meetings, the boards have a responsibility and a duty to give each shareholder who wishes to speak an opportunity to speak but not in an abbreviated form such as by email, letter, or three minutes at the annual meeting. All who wish to speak and to address their concerns, no matter on inconsequential or irrelevant should be listened to - with respect.

Since shareholders are all equal, all shareholders who wish to be candidates for the board must have the right to have their names listed on the ballot. It is easier to run for Governor of Alaska or President of the United States than to run for the boards of most regional corporations. Their platforms must be included in the management mail outs and the listing of candidates the majority of the boards wants to see win election must be prohibited either by statute or by corporate bylaws.

Probably the most powerful tool used by majorities on the boards is legal intimidation. The corporations have successfully lobbied the State of Alaska's regulatory authority to prohibit the use of false and misleading information in mail outs by candidates. If there is corporate democracy as Congress is thought to have intended, then a liberal interpretation of 'false and misleading' must be allowed, particularly since the education attainment of most Alaska Native shareholders does not include knowledge of

the technicalities of corporate finance. This also includes the application of the defamation interpretations to apply to corporate management as it applies to public officials and others in the public arena. Most often what happens is that the legal definition of a board officer is the same of a private citizen. Once a shareholder steps onto the corporate stage he should be considered in the same light as a public official. It should be noted that a board officer can file a complaint against a shareholder for damage to reputation or profession that would not be allowed for a city council official, governor, legislator, or a dog catcher employed by a public entity.

In the interpretation of legal precedent applicable to publically traded corporations, it must be noted, in the promulgation of rules and procedures, that ANCSA corporations are not publically traded and a shareholder cannot sell or buy ANCSA shares. Alaska's Division of Banking and Securities superimposes, at the behest of the regional corporations, the rules of governance of publically traded companies which is an aberration of the intent of thousands of Alaska Natives who supported the passage of ANCSA.

Times have changed and so has how shareholders communicate with each other. Most of the regional corporations now use social media and emails to give and send information to shareholders. While, under state proxy rules, any shareholder who decides to run for the board can legally obtain a shareholders' list of mailing addresses, the email addresses are not required to be given to an independent candidate. Thus, a candidate who is part of the board's majority has instantaneous access to a shareholder while an independent candidate does not and has to use the U.S. postal system.

Aftermath: Igniting a Revolution

After putting the kids to bed, Robert stares out the window watching the snow drift with the howling northwesterly. He can see the bright lights of the mine reflecting off the hard packed snow on the treeless hills. The trucks hauling ore from the open pit are impervious to the Arctic's natural elements. After years of production in plain view of the local residents, it still seems surreal and haunting. He is deep in thought.

Tom of St. Louis and Robert of the tundra, through no fault of their own or effort on their parts, are shareholders of an Alaska Native regional corporation. Tom has 100 shares and Robert has two. Both were born into the circumstances. Robert is thinking of what he read while he was waiting for his toddling child in the village's dilapidated, honeybucket-in-the-shed pre-school teacher's lounge. It was a poem in a tattered book of poetry. The words reverberated in his mind.

*Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveler, long I stood
And looked down one as far as I could
To where it bent in the undergrowth;
I shall be telling this with a sigh
Somewhere ages and ages hence;
Two roads diverged in a wood, and I –
I took the one less traveled by,
And that has made all the difference. (Frost, 1920, p. 1)*

It was poem written over a hundred and fifty years ago by a guy named Robert Frost. He could have been an Eskimo, Robert thought, chuckling to himself. 'I think it time,' he tells his dog, 'to take the less traveled road.'

Tom is being driven home by his chauffeur on the clogged super highway to his home in the suburbs. Tom tells his chauffeur to take the long way. Tom wants to chat with his friend in Alaska. Each time he returns to the East coast, Tom returns with feelings of guilt of how some of the poorest citizens of the United States who are steeped in tradition and culture remain outside of the economic ladder of one of the most profitable mines in the world. 'They have a right to have voice in their own neighborhood just as he has in his neighborhood of five million dollar homes,' he said talking to himself. Taking the long way home will give him more time to talk to Robert on the audio/visual connection in his car.

Tom asks Robert. 'Do you know what I am thinking?' Smiling, Robert answers 'nope.' Tom explains and it does not take Robert long to agree. 'Sooooo, Tom, we'll take the road less traveled,' Robert said. 'Hah?' Tom responds. 'What do you mean?' Robert chuckling, answers, 'Hey, you're the Harvard guy; everyone knows Robert Frost's poetry up here, don't you?'

Over the next several months the two shareholders - one Alaska Native and the other a non-Alaska Native - developed a strategy of how to beat the odds; a strategy to ignite a revolution based on an experiment created on December 18, 1971. It would be, Robert thought, a less traveled road that would make all the difference in reestablishing the ANCSA experiment and that it did not die during the winter of 1972-73.

Robert and Tom recognized that it would be an uphill battle every step of the way. The privately held ANCSA corporations would use every tool available to fight any inclining of a long dormant concept - corporate democracy. The corporations were well connected with the political leadership not only in Alaska but also in many of the states where they had long-standing minority contracts. All of them had law firms that could easily overwhelm legal actions by dissident shareholders, most of whom did not have the financial resources to hire the very best in the legal profession. The law firms also lobbied the Alaska Legislature and the administration if there was any attempt to create an ANCSA regulatory agency, one that had teeth. But both shareholders agreed that it was worth the fight because it gave meaning to being a Alaska Native. For Tom, it was personal. Maybe it would be his life's work; a work that would give hope to the thousands of 'afterborn' Alaska Natives that they too were intended beneficiaries of ANCSA.

The first step was to create a method of communicating with 'afterborn' Alaska Natives by using the latest technology. Both were aware that the corporations monitored the social networks but since they did not intend to do anything illegal, they would use the Internet anyway, but with caution. They would focus on the 20,000 rural Alaska Natives living in the villages near the mines and urge them to support resolutions at the annual meetings of various Alaska Native organizations, usually held in Anchorage and Fairbanks in October. They would be organized on the floor and would fight any attempts by the chairs to silence them, which often happened to dissidents who were not organized.

The main resolution that they would seek to pass would be the re-introduction of the words ‘corporate democracy’ into the Alaska Native lexicon. Other resolutions would address cumulative voting, strong administrative oversight of board elections, annual reporting, and allowing for open and fair debate among shareholders without fear of corporate complaints alleging false and misleading information. Every shareholder would be allowed the opportunity to run for the board with his or her name on the ballot. Management board slates would be prohibited. Term limits would be placed on directors and compensation for officers and directors would be limited within reasonable guidelines. The use of corporate funds in support of board-endorsed candidates would be prohibited.

The thorny issues of sharing of profits from subsurface resource development and land sales would be open for debate and amendment. And, perhaps the most controversial, would be opening the shareholders’ rolls so ‘afterborn’ Alaska Natives would have the opportunity to own stock and share in the profits and opportunities for employment and a vote on the question of sale of ANCSA lands.

There were other items on the agenda but Robert and Tom concluded that the words ‘corporate democracy’ were powerful and would be emphasized at all gathering of Alaska Natives. But they felt the revolution had to have a stronger message. Finally, after several months of emails, teleconferencing and three face-to-face meetings in Seattle, they agreed to somehow merge their three ideas for the revolution's slogan: corporate democracy; the ANCSA experiment created all Alaska Natives as equal shareholders; and the experiment continues.

After packing his bag for the next morning's flight to Bethel, connecting to Anchorage, Robert checks in on his family. He looked at his sleeping wife who was so proud and so happy that he was working to give hope to the 'afterborn' Alaska Natives of rural Alaska. Then, looking at his two children, it became clear why he was doing what he had to do.

Looking out the window Robert saw it was starting to snow, the first snow of October. 'Ah, a lucky sign,' he said to himself. He grabbed his coat and went out to walk his dog. As he and Brownie walked, he thought of the poem by Robert Frost. "Two roads diverged in a wood, and I-I took the one less traveled by,/And that made all the difference." (Frost, 1920, p. 1)

The yards of homes held all the trappings of subsistence - snow machines, outboard motors, boats, nets and drying caribou hides. Yes, Robert thought, we are poor but we don't know it. And, yes, he is going down a road definitely less traveled. He's going up against the best and the brightest of the corporate elite. He's going where few have gone before.

Walking into his house, Robert sees his laptop has the message light blinking. He turns it on and sees it is from Tom, 'Call me.' Robert does and Tom's face comes onto the screen, 'Hey, I just wanted to wish you the best in Anchorage. Sorry I can't be there.' Robert thanks him and tells that their revolutionary army, as Tom has come to call it, will have about 400 people on the floor at any given time during the three-day meeting. Then Tom paused, and somewhat hesitantly said, 'Robert, after we win this thing, I hope you don't become like me. You have everything up there in Alaska; you have compassion in

your heart, a feel for the people, and they like you. All I have is a market-driven corporation and that's not much to have.'

Acronyms

AFN	Alaska Federation of Natives
AHTNA	<u>Not an acronym.</u> It refers to Ahtna, Incorporated
ANCSA	Alaska Native Claims Settlement Act of 1971
ANF	Alaska Native Foundation
ANRC	Alaska Native Review Commission
ASNA	Arctic Slope Native Association
BIA	Bureau of Indian Affairs
CAC	Chugach Alaska Corporation
CEO	Chief Executive Officer
CIRI	Cook Inlet Region, Incorporated
CPA	Certified Public Accountant
FDR	[President] Franklin Delano Roosevelt
GAO	U.S. General Accountability Office
GED	General Equivalency Diploma
IRA	Indian Reorganization Act
NANA	Northwest Alaska Native Association
NOLS	Net Operation Losses
NSB	North Slope Borough
NWAB	Northwest Arctic Borough
P.L.	Public Law
SEC	Security and Exchange Commission

TCC	Tanana Chiefs Conference
UAF	University of Alaska Fairbanks
UAA	University of Alaska Anchorage
USA	United States of America
U.S.	United States
Y-K	Yukon-Kuskokwim

Definitions

‘afterborn’	Alaska Natives born <u>after</u> December 18, 1971
Black Gold	Oil from Prudhoe Bay on the North Slope that flowed through the Trans-Alaska Pipeline to Valdez, AK
Honeybucket	Name given to a 5 gallon bucket used as a toilet in rural Alaska homes.
Settlement Act	see ANCSA

References

AFN homepage website: <http://www.nativefederation.org/>

Alaska Dispatch (2013, May 18). Beyond Pebble: Bristol Bay Native Looks at Other Mining Prospects (reprinted from *Bristol Bay Times*).

Alaska Federation of Natives (AFN) 1988 Annual Convention Poster.

Alaska Journal of Commerce (2007, November 11). Pebble Nets Partner While on Mine Continues.

Alaska Journal of Commerce (2007, September 9). Red Dog mine tightens belt, produces record profits.

Alaska Miners Association (2011). Alaska Native Corporations - A Summary Description Over 44 Million Acres of Private Fee Simple Land. June 7, 2011. <http://www.alaskaminers.org/nativecorps.pdf>

Alaska Native Claims Settlement Act, Section 12.

Alaska Native Epidemiology Center (2009). Alaska Native Tribal Health Consortium, *Native Health Status Report*, August.

Alaska Native Review Commission [ANRC] (1984, March 1). Transcript of Proceedings, Overview Roundtable Discussions, Volume IV, *ANCSA Institutions & Legal Regimes*.

Alaska Population Overview 2010 Census and 2011 Estimates (2012, October). Issn 1063-3790, Department of Labor and Workforce Development, Research and Analysis Section.

Alaska State Legislature Hearing (1992, February 6). House of Representative

Community and Regional Affairs Committee.

Alaska Task Force (1962, December 28), Report to the Secretary of the Interior by the

Task Force on Alaska Native Affairs,

Anders, G. C. (1986). Implications of the Alaska Native Claims Settlement Act, *Journal of American Indian Education*, Volume 25, Number 3.

Arnold, R. (1978). *Alaska Native Land Claims*, Alaska Native Foundation, Anchorage,

AK. May.

Bauman, M. (2005 February 01). Native Leader Joe Upicksoun Leaves Proud Legacy,

Alaska Journal of Commerce.

Berger, T. R. (1985). Village Journey, *The Report of the Alaska Native Review*

Commission, Hill and Wang, New York.

Bigjim, F., & Ito-Adler, J. (1974). *Letters to Howard*, Alaska Methodist University Press,

Anchorage, AK., Chapter 1.

Black, K., Bundy, D., Christianson, C. P. & Christianson, C. (1986). When Worlds

Collide: Alaska Native Corporations and the Bankruptcy Code, *86 Alaska Law Review* Vol.:73.

Blair, W. (1969, February 19). A federal study team recommended today a broad plan

that would settle the claims of Alaskan aboriginals to millions of acres of their ancestral lands while avoiding racial segregation that put American Indians on reservations more than a century ago, *The New York Times*.

- Blatchford, E. (1994). Commissioner, Alaska Department of Community and Regional Affairs, *Certificate of the Boundaries of the City and Borough of Juneau, January 13, 1994*.
- Bockhorst, D. (2001). *Local Government in Alaska*, Alaska Department of Community and Economic Development. February 1.
- Bradner, T. (2012, December 16). Leading Change: Alaska Native Corporations Turn to Young, New Leaders. *Fairbanks Daily News-Miner*.
- Brown, B. (2003). *The History of the Corporation, Volume One*, Introduction, BF Communications Inc., Sumas, WN.
- Brown, C., Thompson, L. & Holst, S. (1999, January 17). Alaska's First People Stood Between Big Oil and a Pipeline, *Juneau Empire* (Between Worlds - a series).
- Chugach Alaska Corporation Shareholders Roll.
- CIRI, Shareholder Study, 1983.
- Citizens United v. Federal Election Commission, 558 U.S. 310.
- Cohen, P. (2011, October 11). What is Occupy Wall Street?, *Forbes Magazine*.
- Colt, S. (1994). *Group-based Asset Transfers and Economic Development: Some Results from Alaska's Native Corporations*, University of Alaska Anchorage, Institute of Social and Economic Research.
- Commission Study, Joint Federal-State Land Use Planning Commission for Alaska, Alaska Native Claims Settlement Act 1971-1979, Summary and Findings.
- Conn, S. (1975). *Stocks, Corporations and the Alaska Native Claims Settlement Act*, Alaska Department of Education and the University of Alaska – Fairbanks. June.

Crider, J. H. (1944, December 10). Racial Issue in Alaska Attributed to Compensating

Natives on Land, *The New York Times*.

Davis Wright Tremaine, LLP, website: <http://www.dwt.com/>

de Jong, G., & van Witteloostuijn, A. (2004). Successful Corporate Democracy:

Sustainable Cooperation of Capital and Labor in the Dutch Breman Group.

DeMarban, A. (2012, May 23). New Interactive Map Portrays Mining Boom Across

Alaska. *Alaska Dispatch*.

Denali Borough Charter, Preamble, Article One, Section 1.04.

Egan, T. (2000, August 25). Alaska Changes View on Carter After 20 Years. *The New*

York Times.

Egan, T. (1990, June 1). Alaska Natives Sadly Ponder Whether to Spend Their Land.

New York Times.

Exxon Valdez Oil Spill Trustee Council, Anchorage, AK, 1998 Status Report.

Federal Field Committee for Development Planning in Alaska (1968). *Alaska Natives*

and the Land. U.S. Government Printing Office, Washington, D.C. October 1.

Forgey, P. (2007 July 15). City's largest taxpayer parlays big tax cut, *Juneau Empire*.

Frantz, K. (1999). *Indian Reservations in the United States, Territory, Sovereignty, and*

Socioeconomic Change, The University of Chicago Press, Chicago and London.

Frantz, K. (1992). *Indian Reservations in the United States, Territory, Sovereignty, and*

Socioeconomic Change. The University of Chicago Press, Chicago and London.

Freeman, R. E. Harrison, J. S., Wicks, A. C., Parmar, B. L., De Collie, S. (2010).

Stakeholder Theory, The State of the Art, Cambridge University Press,
Cambridge, UK.

Friedman, M., & Friedman, R. (1980 [1979]). *Free to Choose A Personal Statement*,

Harcourt Bruce Jovanovich, San Diego, New York, London.

Friedman, M. (1970). The social responsibility of business is to increase its profits, *The*

New York Times Magazine. September 13.

Frost, R. (1920) *The Road Less Traveled, Mountain Interval*, New York: Henry Holt.

Gallagher, H. G. (2001). *Etok, A Story of Eskimo Power*, Vanamere Press, Clearwater,

FL.

Gallagher, H. G. (1974). *Etok, A Story of Eskimo Power*, G.P. Putnam's Sons, New

York.

GeoHive - Global Population <http://www.geohive.com/earth/population3.aspx>

George, R. (2012, December 19). My Turn: U.S. Forest Service didn't listen to Angoon

about Green's Creek Mine. *Juneau Empire*.

Gilbert, L. D. (1956). *Dividends and Democracy*, American Research Council,

Larchmont, New York.

Green, M. (1980). The Case for Corporate Democracy, *Regulation*, May/June.

Ground Truth Trekking (2013, June 6). Pebble Mine (Copper/Gold Prospect),

<http://www.groundtruthtrekking.org/Issues/MetalsMining/pebble-mine-gold-copper-prospect-alaska.pdf>

Ground Truth Trekking (2012 August 28). Greens Creek Silver Mine,

<http://www.groundtruthtrekking.org/Issues/MetalsMining/GreensCreekMine.pdf>

Government Accounting Office (2012). Regional Alaska Native Corporations Status 40

Years after Establishment, and Future Considerations, GAO-13-121. December.

Henrichs (2011, April 22) v. Chugach Alaska Corporation, Supreme Court of Alaska. sp-6553, 250 P3d 531.

Henrichs (2011, August 26) v. Chugach Alaska Corporation, Supreme Court of Alaska, No. S-12878.

Hoxie, F., Hoffman, R. & Albert, P. (1999). *Native Americans and the Early Republic*, University Press of Virginia.

Huhndorf, R.M. & Huhndorf, S. (2011). Alaska Native Politics Since the Alaska Native Claims Settlement Act, *South Atlantic Quarterly*, Volume 110, Number 2, Spring 2011.

Icahn, C. (2008). Corporate Democracy Is A Myth, *The Ichn Report*, Posted June 18.

Indian Citizen Act of 1924 (43 U.S. Stats. At Large, Ch. 233).

Indian Gaming Commission website <http://www.nigc.gov/>

Indian Reorganization Act (1934), 48 Stat. 984, (aka Wheeler Howard Act), June 18.

Indian Reorganization Act (1936), 48 Stat. 984, Section 16 (amended May 1).

Institute of Social and Economic Research (1991). *Financial Performance of Native Regional Corporations, Review of Social and Economic Conditions*, University of Alaska Anchorage, Vol. XXVIII, No. 2. December.

- Jensen, M. C. (2000). *A Theory of the Firm, Governance, Residual Claims, and Organizational Forms*, Harvard University Press, Cambridge, Massachusetts.
- Jones, R. S. (1981). Alaska Native Claims Settlement Act of 1971 (Public Law 92 – 203): History and Analysis Together With Subsequent Amendments, Report No. 81-127 Gov. June 1.
- Academy of Management Executive*, 2004, Vol. 18, No. 3.
- Lazarus Jr., A. & West Jr., R. (1976). The Alaska Native Claims Settlement Act: A Flawed Victor, Law and Contemporary Problems, *Duke University School of Law*, Vol. 40, No. 1 Winter 1976, 184.
- Linxwiler, J. D., Guess & Rudd (2007). The Alaska Natives Claims Settlement Act at 35: Delivering on the Promise, *53rd Annual Rocky Mountain Mineral Law Institute*.
- Kleinfeld, J., Jones, P. & Evans, R., (1973). Land Claims and Native Manpower, Staffing Regional and Village Corporations Under Alaska Native Claims Settlement Act of 1971, *Alaska Native Foundation and Institute of Social, Economic and Government Research*, University of Alaska, College, Alaska.
<http://eric.ed.gov/?id=edd78989>
- Langdon, S. J. (1986). *Contemporary Alaskan Native Economies, Economic Growth and Development Strategies for Rural Alaska: A Time to Reconsider*, University Press of America, Inc., Boston, MA.
- Lipton, M. (2012). *Some Thoughts on Boards of Directors in 2013*, Wachtell, Lipton, Rosen & Katz. December 31.

- Macey, J. R. (2008). *Corporate Governance, Promises Kept, Promises Broken*, Princeton University Press, Princeton and Oxford.
- Metals About.com (2013) <http://metals.about.com/cs/utilities/l/blprices.htm>
- McBeath, G. A. & Morehouse, T. A. (1980). *The Dynamics of Alaska Native Self-Government*, University Press of America, Lanham, MD.
- McClanahan, A. J. (2000). *Growing Up Native In Alaska*, The CIRI Foundation, Anchorage, AK.
- Medred, C. (2010). *Alaska Dispatch*, Donlin mine moves slowly toward reality. April 25.
- Meriam, L. (1928). *The Problem of Indian Administration*, Baltimore: The John Hopkins Press.
- Mitchell, D. C. (2001). *Take My Land Take My Life, the Story of Congress's Historic Settlement of Alaska Native Land Claims, 1960-1971*, Fairbanks, Alaska, University of Alaska Press.
- Mitchell, D. C. (1997). *Alaska v. Native Village of Venetie: Statutory Construction or Judicial Usurpation? Why History Counts*, Mitchell. Conv. Fin., 12/09/97. 9:52 a.m.
- Morgan, L. (1988). *Art and Eskimo Power, the Life and Times of Alaskan Howard Rock*, Epicenter Press, Fairbanks, Alaska.
- Nerburn, K. (1999). *The Wisdom of the Native Americans*, MJF Books, New York, NY.
- O'Harrow, R. (2010 September 10). For Many with Stake in Alaska Native Corporations, Promises of a Better Life Remain Unfulfilled, *Washington Post*.

Ongtooguk, P. (2012 March 16). ANCSA at 40: Where are we and where are we going?, *Alaska Dispatch*.

Paul, F. (2003). *Then Fight For It, The Largest Peaceful Redistribution of Wealth in the History of Mankind and The Creation of the North Slope Borough*, Trafford Publishing, Victoria, Canada.

Pealstein, S. (2008). Keynes on Steroids, *Washington Post*. November 26.

Pebble Partnership News Release, (2013). *Updated Mineral Resource Estimate Confirms Pebble Project as North America's Most Important New Copper-Gold-Molybdenum Development Opportunity*. June 12.

Phillips, N. (1999). Spill Funds Aren't End of Trouble, *Anchorage Daily News*. May 13.

Pozen, R. C. (2009). *Harvard Business Review*, How Powerful Should Shareholders Be in Corporate Elections. October 30.

Pub. L. No. 92-203, 85 Stat. 688, 693 (1971).

Public Law 92-203, Sections 3, 4, 5.

Public Law 92-203, Sec. 7(d).

Public Law 92-203, Section 7(i).

Public Law 100-497-Oct. 17, 1988 100th Congress Sec. 2701.

Ray, D. M. (2005). *JCC 20 Winter 2005*. University of St. Thomas, Greenleaf Publishing, Minneapolis, MN.

Regional Alaska Native Corporations (2012). Status 40 Years After Establishment, and Future Considerations, GAO-13-121, December.

Schaffner, F. J. (1970). *Patton*, Twentieth Century Fox Home Entertainment.

Senungetuk, J. E. (1971). *Give or Take a Century, An Eskimo Chronicle*, The Indian Historian Press, San Francisco, CA.

Sison, A. J. (2008). *Corporate Governance and Ethics, An Aristotelian Perspective*. Edward Elgar, Cheltenham, UK and Northampton, MA.

Sorkin, A. L. (1971). *American Indians and Federal Aid*, The Brookings Institution, Washington, D.C.

Sparks III, A. G. (2008). *Corporate Democracy – What It Is, What It Isn't, and What It Should Be*, Morris, Nichols, Arsht & Tunnell LLP. February.

State of Alaska Constitution, Article X, Section 1

St. Petersburg Times (1969). (*Los Angeles Times Service*), Claims of Alaskan Natives Opposed. October 30.

The Associated Press (2003). Nome voters elect first Alaska Native woman mayor, *Juneau Empire*. Oct. 12.

The New York Times (2012). A Threat to Bristol Bay. June 4.

The New York Times (1993). Lewis Gilbert, 86, Advocate of Shareholders Rights. December 08.

The New York Times (1993). Oil-Spill Trustees Back a Land Deal. May 16.

The New York Times (1971). Alaskans Accept Land Claims Bill. December 20.

The New York Times (1967). Alaskans Dispute 'Freeze' on Land. June 11.

The New York Times (1903). The Alaska Purchase Was A Profitable Investment. September 03.

The Tundra Times (1990). Sealaska signs mineral exploration pact. September 3.

The Tundra Times (1987). Sealaska Corp. forms new minerals division. December 27.

The Tundra Times Archives, Tuzzy Consortium Library, Barrow, Alaska.

The Tundra Times (1971). editorial. December 17.

The Tundra Times (1969). Testimonies Favor AFN Bill, Overwhelming Support for Measure Brought Out at Land Hearings. October 24.

Turner, W. (1987). Eskimos Award \$10 Million in Suit, *The New York Times*. June 25.

Turner, W. (1983). Alaska Native Corporations, *The New York Times*. July 12.

Turner, W. (1972). Alaskan Natives Ponder How to Dispose of \$962.5-Million From Land Claims, *The New York Times*. August 4.

Tyler, L. S. (1973). *A History of Indian Policy*, United States Department of the Interior, Bureau of Indian Affairs, Washington, D.C.

United States Government Accountability Office (2012). *Report to Congressional Requesters, Regional Alaska Native Corporations, Status 40 Years after Establishment and Future Considerations*. December.

United States Senate (2009). Committee on Homeland Security and Government Affairs Subcommittee on Contracting Oversight. *New Information About Contracting Preferences for Alaska Native Corporations (Part II)*. July 5.

U.S. 2010 Census Projections.

U.S. Census, 2010.

U.S. Census Bureau, International Data Base, June 2011 Update.

U.S. Census Figures, 2010.

U.S. Constitution, Article 1, Section 8, Clause 3.

U.S. Department of the Interior, ANCSA 1986 Study.

U.S. Federal Census, 1970.

USLegal.com (2010). USLegal, Inc., website: <http://uslegal.com/>.

Wallison, P. J. (2007). Should Corporations Be Democracies?, *The American*, The Online Magazine of the American Enterprise Institute. May/June.

Woods, T. E. (2007). Were American Indians Really Environmentalists?, *Mises Daily*. July 19.

Yes!, Occupy Wall Street (2012 September 19).

Zellen, B. S. (2008). *Breaking the Ice, From Land Claims to Tribal Sovereignty in the Arctic*, Lexington Books, Lanham, Boulder, New York, Toronto, Plymouth, UK.

Zizzia, T. (1997a). Jubilation and fear, Venetie ruling changed Alaska politics. *Anchorage Daily News*, July 5.

Zizzia, T. (1997b). Villages or Tribes? A history of congressional indecision regarding Alaska's Native people. *Anchorage Daily News* June 29.

Bibliography

- Akerlof, G. A. & Shiller, R. J., (2009), *Animal Spirits: How Human Psychology Drives the Economy and Why it Matters for Global Capitalism*, 1st ed, Princeton University Press, Princeton, N.J.
- Batra, R., (2009), *The New Golden Age: The Coming Revolution Against Political Corruption and* Bernstein, Peter L., *A Primer On Money, Banking, and Gold*, 1st ed, Wiley, Hoboken, New Jersey.
- Beattie, A., (2009), *False Economy: A Surprising History of the World*, 1st ed, Penguin Group, New York, NY.
- Bianco, A., (2010), *The Big Lie: Spying, Scandal and Ethical Collapse of Hewlett Packard*, 1st ed, PublicAffairs Books, Jackson, TN.
- Blatchford, E., (2010), *The Unintended Consequences of the Alaska Native Claims Settlement Act*, Dartmouth College.
- Brown, D., (2010), *Finance Your Business*, 8th ed, Simply Magazine, Lincoln, MA.
- Brown, D., (2007), *Angel Investing: The Art of Finding and Closing the Right Deal*, 1st ed, Simply Magazine, Lincoln, MA.
- Brown, D., (2007), *Board of Directors: Responsibilities, Opportunities, and 23 Questions to Ask the CEO*, 1st ed, Simply Magazine, Lincoln, MA.
- Buffett, M. & Clark, D., (2008), *Warren Buffett and the Interpretations of Financial Statements: The Search for the Company with a Durable Competitive Advantage*, Scribner, New York, NY.

- Cassidy, J., (2000), *How Markets Fail: The Logic of Economic Calamities*, 1st ed, Farrar, Straus, Giroux, New York, NY.
- Clarkin, T., (2001). *Federal Indian Policy In the Kennedy and Johnson Administrations 1961 – 1969*, University of New Mexico Press, Albuquerque.
- Clemens, J., (2012), *Corporations Are Not People: Why They Have More Rights Than You Do and What You Can Do About It*, Berrett-Koehler Publishers, San Francisco, California.
- Conway, E., (2009), *50 Economic Ideas You Really Need to Know*, Quercus, London and New York.
- Christensen, C., Anthony, S. D. & Roth, E. A., (2004), *Seeing What's Next: Using the Theories of Innovation to Predict Industry Change*, 1st ed, Harvard Business School Publishing Company, Boston, MA.
- Darabasi, A., (2003), *Linked: How Everything is Connected to Everything Else and What it Means for Business, Science, and Everyday Life*, 1st ed, Plume, New York, NY.
- Dasgupta, P., (2007), *Economics: A Very Short Introduction*, 1st ed, Oxford University Press, Cambridge, England.
- Drucker, P., (2006 Feb.) *What Executives Should Remember*, Harvard Business Review, Boston, MA.
- Economic Chaos*, (2009), Palgrave Macmillan, Basingstoke, England.
- El-Erian, M., (2008), *When Markets Collide: Investment Strategies for the Age of Global Economic Change*, BBC Audiobooks America, Narragansett Bay, R.I.

- Ellis, C., (2009), *The Partnership: The Making of Goldman Sachs*, Penguin Books, London.
- Faber, D., (2009), *And Then the Roof Caved In: How Wall Street's Greed and Stupidity Brought Capitalism to Its Knees*, 1st ed, John Wiley and Sons, Hoboken, NJ.
- Ferguson, C. H., (2013), *Predator Nation: Corporate Criminals, Political Corruption, and the Hijacking of America*, Crown Business, New York, NY.
- Federal Charters for Energy Corporation, Committee on Interior and Insular Affairs*, (1974), United States Senate, U.S. Government Printing Office.
- Fox, J., (2011), *The Myth of the rational Market: A History of Risk, Reward, and Delusion on Wall Street*, reprint ed, HarperBusiness, New York, NY.
- Gillespie, J. & Zweig, D., (2010), *Money for Nothing: How the Failure of Corporate Boards is Ruining American Business and Costing Us Trillions*, Simon and Schuster, first edition, New York, NY.
- Hammer, M. & Champy, J., (2006 October), Rev Upd edition, *Reengineering the Corporation: A Manifesto for Business Revolution (Collins Business Essentials)*, HarperBusiness, New York, NY.
- Huffington, A., (2004), *Pigs at the Trough: How Corporate Greed and Political Corruption are Undermining America*, Broadway Books, New York, NY.
- Kiechel, W., (2010), *The Lords of Strategy: The Secret Intellectual History of the New Corporate World*, 1st ed, Harvard Business School Press, Boston, MA.
- Klein, N., (1999), *No Logo: Taking Aim at the Brand Bullies*, Knopf Canada, first edition, Toronto, Canada.

- Korten, D., (2001), *When Corporations Rule the World*, 2nd edition, Berrett-Koehler Publishers, San Francisco, California.
- Krakovsky, M. & Chen, K., (2010), *Secrets of the Money Lab: How Behavioral Economics Can Improve Your Business*, Portfolio Penguin, New York, NY.
- Krugman, P., (2009), *The Return of Depression Economics and the Crisis of 2008*, reprint ed, W.W. Norton & Company, New York, NY.
- Malkiel, B. G. & Ellis, C.D., (2013), *The Elements of Investing: Easy Lessons for Every Investor*, 1st ed, Wiley, Hoboken, NJ.
- Mitchell, D. C., (1997), *Sold American The Story of Alaska Natives and Their Land, 1867-1959, The Army to Statehood*, Hanover and London: University Press of New England.
- Moyo, D., (2012), *Winner Take All: China's Race for Resources and What It Means for the World*, Basic Books, first edition, New York, NY.
- Nakazawa, A. & Dickerson, L., (2012), *Creating A Healthy Community: A Handbook*, University of Alaska, Cooperative Extension Service, Fairbanks, AK, (CRD-00012 www.uaf.edu/ces)
- Nakazawa, A., Blatchford E., Boone, E., Garcia, A. & Hall, A., (2012), *HANDBOOK FOR COMMUNITY CHANGE: Working Together to Improve Alaska Communities*, University of Alaska Fairbanks, Cooperative Extension Service, Fairbanks, AK, (CRD-00013 www.uaf.edu/ces)
- Navarro, P., (2008), *The Modern Scholar: Principles of Economics, Business, Banking, Finance and Your Life*, 1st ed, Recorded Books, Prince Frederick, MD.

Perkins, J., (2005), *Confessions of an Economic Hitman*, 2nd ed, Plume, New York, NY.

Report No. 269, (1978 October), *Alaska Natives Regional Profiles*, United States

Department of the Interior, Bureau of Indian Affairs Planning Support Group,
Billings, Montana.

Roubini, N. & Mihm, S., (2010), *Crisis Economics, A Crash Course in the Future of Finance*, 1st ed, Penguin Press HC, London, England.

Shapiro, E., (2007), *Bust the Fads: Win at Business*, 1st ed, Simply Magazine, Lincoln, MA.

Skousen, M., (2007), *The Big Three in Economics: Adam Smith, Karl Marx, and John Maynard Keynes*, 1st ed, M.E. Sharpe, Armonk, NY.

Smith, R. P. & Zheutlin, P., (2009), *Riches Among the Ruins: Adventures in the Dark Corners of the Global Economy*, American Management Association, New York, NY.

Soros, G. & Volcher, P.A., (2003), *The Alchemy of Finance*, 1st ed, Wiley, Hoboken, NJ.

Sowell, T., (2010), *The Housing Boom and Bust*, First Trade Paper Edition, Basic Books, New York, NY.

Sowell, T., (2008), *Economic Facts and Fallacies*, 1st ed, Basic Books, New York, NY.

Thomas C. & Nakazawa A., (2012). *Working Effectively with the Legislature and Governor's Office and State Agencies*, Understanding the Alaska Legislative Process Workshop 2012, Anchorage, AK

Wei, Y., (2003), *Comparative Corporate Governance, A Chinese Perspective*. *Kluwer Law International*, The Hague, London, New York.

Woodward, B., (2012), *The Price of Politics*, Simon and Schuster, first edition, New York, NY.

Appendix A

THE 12 REGIONAL CORPORATIONS				
	Number of Stockholders (9-14-74)	Stockholders residing in region (8-28-74)	Total population within region (1970)	Number of village corporations
Ahtna, Inc.	1,092	495	1,332	8
The Aleut Corporation	3,353	1,667	7,694	12
Arctic Slope Regional Corporation	3,906	2,886	3,266	8
Bering Straits Native Corporation	6,916	4,638	5,749	16
Bristol Bay Native Corporation	5,517	3,596	4,995	29
Calista Corporation	13,441	11,561	12,617	56
Chugach Natives, Inc.	2,099	1,062	6,286	5
Cook Inlet Region, Inc.	6,243	4,181	145,072	6
Doyon, Limited	9,221	6,683	57,354	34
Koniag, Inc. Regional Native Corporation	3,340	1,958	9,409	9
NANA Regional Native Corporation	4,905	3,643	4,043	11
Sealaska Corporation	16,493	9,529	42,565	9
Totals	76,526	51,899	300,382	203
Sources: Enrollment data: enrollment Office, U. S. Bureau of Indian Affairs, Anchorage, Alaska. Population: U. S. Bureau of the Census, U. S. Census of Population, 1970, Alaska				
Note: Figures subject to change upon formation of the 13th regional corporation.				

Appendix B

VILLAGE CORPORATIONS
ELIGIBLE FOR LAND AND MONEY BENEFITS

village name	name of village corporation	enroll- ment 9-14-74	regional corporation
Afognak	Natives of Afognak, Inc.	392	Koniag
Akhiok	Natives of Akhiok, Inc.	100	Koniag
Akiachak	Akiachak, Ltd.	332	Calista
Akiak	Kokarmiut Corporation	211	Calista
Akutan	Akutan Corporation	106	Aleut
Alakanuk	Alakanuk Native Corporation	467	Calista
Alatna	Alatna Endeavors, Inc.	30	Doyon
Aleknagik	Aleknagik Natives, Ltd.	231	Bristol Bay
Allakaket	Aala Kaa K'a, Inc.	147	Doyon
Ambler	Ivisaapaagmiit Corporation	166	NANA
Anaktuvuk Pass	Nunamiut Corporation	132	Arctic Slope
Andreafski	Nerklikmute Native Corporation	84	Calista
Angoon	Kootznoowoo, Inc.	620	Sealaska
Aniak	Aniak, Ltd.	250	Calista
Anvik	Central Native Corporation	129	Doyon
Atka	Atxam Corporation	145	Aleut
Atkasook	Atkasook Corporation	71	Arctic Slope
Atmautluak	Atmautluak, Ltd.	120	Calista
Barrow	Ukpeagvik Inupiat Corporation	2041	Arctic Slope
Beaver	Beaver Kwit' chin Corporation	190	Doyon
Belkofski	Belkofski Corporation	34	Aleut
Bethel	Bethel Native Corporation	1725	Calista
Bettles Field /			
Evansville	Evansville, Inc.	77	Doyon
Bill Moores	Kongnikilnomiut Yuita Corp.	46	Calista
Birch Creek	Tihteet' Aii, Inc.	52	Doyon
Brevig Mission	Brevig Mission Native Corp.	135	Bering Straits
Buckland	Nunachiak Corporation	159	NANA
Cantwell	Cantwell Yedetena Na Corp.	72	Ahtna
Chalkyitsik	Chalkyitsik Native Corporation	90	Doyon
Chefornak	Chefarnrmute, Inc.	162	Calista
Chenega	Chenega Corporation	68	Calista
Chevak	Chevak Company	423	Calista
Chickaloon	Chickaloon-Moose Creek Native Association, Inc.	42	Cook Inlet

Chignik	Far West, Inc.	286	Bristol Bay
Chignik Lagoon	Chignik Lagoon Native Corp.	103	Bristol Bay
Chignik Lake	Chignik Lake Natives, Inc.	104	Bristol Bay
Chistochina	Cheesh-na, Inc.	32	Ahtna
Chitina	Chitina Native Corporation	237	Ahtna
Chuathbaluk	Chuathbaluk Company	114	Calista
Chuloonawick	Chuloonawick Corporation	27	Calista
Circle	Danzhit Hanlaih Corporation	104	Doyon
Clark's Point	Saguyak, Inc.	111	Bristol Bay
Copper Center	Kluti-kaah Corporation	260	Ahtna
Council	Council Native Corporation	72	Bering Straits
Craig	Shaan-Seet, Inc.	317	Sealaska
Crooked Creek	Kipchaughpuk, Ltd.	127	Calista
Deering	Deering Ipnaatchiak Corporation	159	NANA
Dillingham	Choggiung, Ltd.	925	Bristol Bay
Dot Lake	Dot Lake Native Corporation	45	Doyon
Eagle	Hungwitchin Corporation	101	Doyon
Eek	Iqfijouaq Company	200	Calista
Egegik	Becharof Corporation	166	Bristol Bay
Eklutna	Eklutna, Inc.	126	Cook Inlet
Ekuk	Ekuk Natives, Ltd.	39	Bristol Bay
Ekwok	Ekwok Natives, Ltd.	113	Bristol Bay
Emmonak	Emmonak Corporation	478	Calista
English Bay	English Bay Corporation	71	Chugach
Eyak	Eyak Corporation	323	ChugachFalse
Pass	False Pass Corporation	66	Aleut
Ft. Yukon	Gwitchyaazhee Corporation	737	Doyon
Gakona	Gakona Corporation	35	Ahtna
Galena	Notaaghleedin, Ltd.	344	Doyon
Georgetown	Georgetown, Inc.	45	Calista
Golovin	Golovin Native Corporation	171	Bering Straits
Goodnews Bay,			
Mumtrak	Kiutsarak, Inc.	223	Calista
Grayling	Hee-yea-lingde Corporation	178	Doyon
Gulkana	Sta-keh Corporation	106	Ahtna
Hamilton	Nunapiglluraq Corporation	35	Calista
Healy Lake	Mendas Chax-aq Native Corp.	27	Doyon
Holy Cross	Deloycheet, Inc.	429	Doyon
Hoonah	Huna Totem	868	Sealaska
Hooper Bay	Sea Lion Corporation	623	Calista
Hughes	Hadohdleekaga, Inc.	96	Doyon
Huslia	Bin Googa, Inc.	217	Doyon
Hydaburg	Haida Corporation	570	Sealaska
Inalik/Diomedes	Diomedes Native Corporation	104	Bering Straits

Igiugig	Igiugig Native Corporation	37	Bristol Bay
Iliamna	Iliamna Natives, Ltd.	75	Bristol Bay
Ivanof Bay	Bay View, Inc.	47	Bristol Bay
Kaguyak	Kaguyak, Inc.	48	Koniag
Kake	Kake Tribal Corporation	552	Sealaska
Kaktovik	Kaktovik Inupiat Corporation	112	Arctic Slope
Kaltag	Takathlee-todin, Inc.	253	Doyon
Karluk	Karluk Native Corporation	186	Koniag
Kasaan	Kavilco, Inc.	121	Sealaska
Kasigluk	Kasigluk, Inc.	309	Calista
Kiana	Katyaak Corporation	339	NANA
King Cove	The King Cove Corporation	343	Aleut
King Island	King Island Native Corporation	205	Bering Straits
Kipnuk	Kugkaktlik, Ltd.	359	Calista
Kivalina	Kivalina Sinuakmeut Corporation	191	NANA
Klawock	Klawock Heenya	507	Sealaska
Knik	Knikatnu, Inc.	29	Cook Inlet
Kobuk	Koovukmeut, Inc.	63	NANA
Kokhanok	Kokhanok Native Corporation	106	Bristol Bay
Koliganek	Koliganek, Ltd.	131	Bristol Bay
Kongiganak	Qenirtalet Coast Corporation	248	Calista
Kotlik	Kotlik Yupik Corporation	220	Calista
Kotzebue	Kikiktagruk Inupiat Corp.	1983	NANA
Koyuk	Koyuk Native Corporation	188	Bering Straits
Koyukuk	Mineelghaadza', Ltd.	164	Doyon
Kwethluk	Kwethluk, Inc.	450	Calista
Kwigillingok	Kwik, Inc.	229	Calista
Larsen Bay	Nu-Nachk Pit, Inc.	201	Koniag
Levelock	Levelock Natives, Ltd.	100	Bristol Bay
Lime Village	Lime Village Company	26	Calista
Lower Kalskag	Lower Kalskag, Inc.	168	Calista
Manley			
Hot Springs	Bean Ridge Corporation	42	Doyon
Manokotak	Manokotak Natives, Ltd.	227	Bristol Bay
Marshall/			
Fortuna Ledge	Maserculiq, Inc.	214	Calista
Mary's Igloo	Mary's Igloo Native Corporation	109	Bering Straits
McGrath	Chamai, Inc.	176	Doyon
Mekoryuk	Nima Corporation	306	Calista
Mentasta Lake	Mentasta, Inc.	97	Ahtna
Minto	Seth-de-ya-ah Corporation	286	Doyon
Mountain Village	Azachorok, Inc.	488	Calista
Naknek	Paug-vik Incorporated, Ltd.	293	Bristol Bay
Napaimute	Napaimute, Ltd.	43	Calista

Napakiak	Napakiak Corporation	260	Calista
Napaskiak	Napaskiak, Inc.	218	Calista
Nelson Lagoon	Nelson Lagoon Corporation	54	Aleut
Nenana	Toghetthele Corporation	452	Doyon
New Stuyahok	Stuyahok, Ltd.	229	Bristol Bay
Newhalen	Newhalen Native Corporation	74	Bristol Bay
Newtok	Newtok Corporation, Inc.	126	Calista
Nightmute	NGTA, Inc.	99	Calista
Nikolai	DonLee Corporation	93	Doyon
Nikolski	Chaluka Corporation	74	Aleut
Ninilchik	Ninilchik Native Assoc., Inc.	203	Cook Inlet
Noatak	Noatak Napaaktukmeut Corp.	281	NANA
Nome	Sitnasuak Native Corporation	2060	Bering Straits
Nondalton	Nondalton Native Corporation	253	Bristol Bay
Noorvik	Putoo Corporation	487	NANA
Northway	Northway Natives, Inc.	207	Doyon
Nuiqsut	Kuukpik Corporation	206	Arctic Slope
Nulato	Nik'aghun, Ltd.	388	Doyon
Nunapitchuk	Nunapitchuk, Ltd.	325	Calista
Ohogamiut	OHOG, Inc.	22	Calista
Old Harbor	Old Harbor Native Corporation	335	Koniag
Oscarville	Oscarville Native Corporation	53	Calista
Ouzinkie	Ouzinkie Native Corporation	333	Koniag
Paimiut	Paimiut Corporation	22	Calista
Pedro Bay	Pedro Bay Corporation	105	Bristol Bay
Perryville	Oceanside Corporation	130	Bristol Bay
Pilot Point	Pilot Point Native Corporation	146	Bristol Bay
Pilot Station	Pilot Station, Inc.	322	Calista
Pitka's Point	Pitka's Point Native Corporation	89	Calista
Platinum	ARVIG, Inc.	68	Calista
Point Hope	Tigara Corporation	500	Arctic Slope
Point Lay	Cully Corporation	88	Arctic Slope
Port Graham	Port Graham Corporation	190	Chugach
Port Heiden	Meshik, Inc.	70	Bristol Bay
Port Lions	Port Lions Native Corporation	112	Koniag
Portage Creek	Ohgsenakle Corporation	78	Bristol Bay
Quinhagak	Qanirtuug, Inc.	346	Calista
Rampart	Baan o yeel kon Corporation	175	Doyon
Red Devil	Red Devil, Inc.	35	Calista
Ruby	Dineega Corporation	288	Doyon
Russian Mission (Yukon)	Russian Mission Native Corp.	127	Calista
St. George	St. George Tanaq Corporation	215	Aleut
St. Mary's	St. Mary's Native Corporation	297	Calista

St. Michael	St. Michael Native Corporation	256	Bering Straits
St. Paul	Tanadgusix Corporation	549	Aleut
Sand Point	Shumagin Corporation	402	Aleut
Saxman	Cape Fox Corporation	191	Sealaska
Scammon Bay	Askinuk Corporation	192	Calista
Selawik	Akuliuk, Inc.	477	NANA
Seldovia	Seldovia Native Assoc., Inc.	254	Cook Inlet
Shageluk	Zho-tse, Inc.	185	Doyon
Shaktoolik	Shaktoolik Native Corporation	207	Bering Straits
Sheldon's Point	Swan Lake Corporation	131	Calista
Shishmaref	Shishmaref Native Corporation	310	Bering Straits
Shungnak	Isingnakmeut, Inc.	161	NANA
Sleetmute	Sleetmute, Ltd.	164	Calista
South Naknek	Quinuyang, Ltd.	180	Bristol Bay
Stebbins	Stebbins Native Corporation	273	Bering Straits
Stevens Village	Dinyea Corporation	166	Doyon
Stony River	Stony River, Ltd.	82	Calista
Takotna	Gold Creek, Ltd.	38	Doyon
Tanacross	Tanacross, Inc.	167	Doyon
Tanana	Tozitna, Ltd.	595	Doyon
Tatitlek	Tatitlek Corporation	215	Chugach
Tazlina	Tazlina, Inc.	121	Ahtna
Telida	Seseui, Inc.	25	Doyon
Teller	Teller Native Corporation	272	Bering Straits
Togiak	Togiak Natives, Ltd.	400	Bristol Bay
Toksook Bay	Nunakauiak Yupik Corporation	280	Calista
Tuluksak	Tulkisarmute, Inc.	183	Calista
Tuntutuliak	Tuntutuliak Land, Ltd.	211	Calista
Tununak	Tununrmiut Rinit Corporation	296	Calista
Twin Hills	Twin Hills Native Corporation	61	Bristol Bay
Tyonek	Tyonek Native Corporation	303	Cook Inlet
Ugashik	Ugashik Native Corporation	31	Bristol Bay
Umkumuite	Umkumuite, Ltd.	27	Calista
Unalakleet	Unalakleet Native Corporation	839	Bering Straits
Unalaska	Ounalashka Corporation	268	Aleut
Unga	Unga Corporation	58	Aleut
Upper Kalskag	Upper Kalskag, Inc.	159	Calista
Wainwright	Olgoonik Corporation	371	Arctic Slope
Wales	Wales Native Corporation	167	Bering Straits
White Mountain	White Mountain Native Corp.	202	Bering Straits
Woody Island	Leisnoi, Inc.	296	Koniag
Yakutat	Yak-tat Kwaan, Inc.	334	Sealaska

Appendix C

VILLAGE CORPORATIONS WHICH CHOSE FORMER RESERVES

village name	name of village corporation	enroll- ment 9-14-74	name of former reserve
Arctic Village	Neets'ai Corporation	147	Venetie
Elim	Elim Native Corporation	238	Elim
Gambell	Gambell Native Corporation	429	St. Lawrence Island
Klukwan	Kiukwan Corporation	251	Klukwan
Savoonga	Savoonga Native Corporation	412	St. Lawrence Island
Tetlin	Tetlin Native Corporation	125	Tetlin
Venetie	Venetie Indian Corporation	156	Venetie

